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These regulations apply to gifts made by residents and nonresidents after June 6, 1932.

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TABLE OF CONTENTS

[The section numbers refer to the statute and the article number to the regulations]

	Page
Section 501. Imposition of tax	1
Article 1. Imposition of tax	1
Article 2. Transfers reached	2
Article 3. Transfers in trust	3
Article 4. Citizenship and residence	3
Section 502. Computation of tax	4
Article 5. Computation of tax	6
Article 6. Tax rate schedule	7
Article 7. Application of rate schedule	7
Section 503. Transfer for less than adequate and full consideration	8
Article 8. Transfers for less than an adequate and full consideration	8
Section 504. Net gifts	8
Article 9. Net gifts	8
Article 10. Total amount of gifts	8
Article 11. Future interests in property	9
Section 505. Deductions	9
Article 12. Specific exemption	10
Article 13. Charitable, etc., gifts	11
Article 14. Religious, charitable, scientific, literary, and educational organizations	12
Article 15. Proof required	12
Article 16. Charitable, etc., gifts with power to divert	12
Section 506. Gifts made in property	13
Article 17. Gifts made in property	13
Article 18. Situs of property	13
Article 19. Valuation of property	13
(1) General	13
(2) Real estate	14
(3) Stocks and bonds	14
(4) Interest in business	15
(5) Notes, secured and unsecured	16
(6) Intangibles	16
(7) Annuities, life, remainder, and reversionary interests	16
(8) Tenancies by the entirety	18
Section 507. Returns	20
Article 20. Persons required to file return	20
Article 21. Donees and trustees required to file notice of gifts	21
Article 22. Time and place of filing return	21
Article 23. Form of return	22
Article 24. Description of property listed on return	23

	Page
Section 508. Records and special returns	24
Article 25. Aids to determination and collection of tax	24
Article 26. Supplemental data	24
Article 27. Returns confidential	24
Article 28. Disclosure to persons having material interest	25
Article 29. Where no return filed, or false or fraudulent return filed	25
Section 509. Payment of tax	26
Article 30. Date of payment	26
Article 31. Extension of time for payment of tax	26
Article 32. Voluntary advance payment	27
Article 33. When fractional part of cent may be disregarded	37
Article 34. Receipts for taxes	27
Article 35. Payment by check	37
Article 36. Donor liable for tax	28
Section 510. Lien for tax	28
Article 37. Lien for tax	28
Article 38. Release of lien	29
Section 511. Examination of return and determination of tax	30
Article 39. Examination of return and determination of tax by the Commissioner	30
Section 512. Definition of deficiency	30
Article 40. Deficiency defined	30
Section 513. Assessment and collection of deficiencies	31
Article 41. Assessment of deficiency	33
Article 42. Waiver by donor of restrictions on assessment	35
Article 43. Collection of deficiency	35
Article 44. Extension of time for payment of deficiencies	35
Section 514. Jeopardy assessments	37
Article 45. Jeopardy assessments	38
Section 515. Claims in abatement	40
Article 46. Claims in abatement	40
Section 516. Bankruptcy and receiverships	40
Article 47. Bankruptcy and receiverships	41
Article 48. Immediate assessments in bankruptcy and receivership cases	41
Section 517. Period of limitation upon assessment and collection	43
Article 49. Period of limitation upon assessment of tax	43
Article 50. Period of limitation upon collection of tax	43
Section 518. Suspension of running of statute	44
Article 51. Suspension of running of statute of limitations	44
Section 519. Additions to the tax in case of failure to file return	45
Article 52. Additions to the tax in case of failure to file return	45
Section 520. Additions to the tax in case of deficiency	46
Article 53. Additions to the tax in case of deficiency	46
Section 521. Interest on extended payments	46
Article 54. Interest on tax where extension of time for payment has been granted	46
Section 522. Interest on deficiencies	48
Article 55. Interest on deficiencies	48
Section 523. Interest on jeopardy assessments	48
Article 56. Interest on jeopardy assessments	48
Section 524. Additions to the tax in case of nonpayment	49
Article 57. Additions to the tax in case of nonpayment (interest)	50

	Page
Section 525. Penalties	51
Article 58. Penalties	52
Section 3229, Revised Statutes. Compromises	53
Article 59. Power to compromise or remit	53
Section 526. Transferred assets	53
Article 60. Claims in cases of transferred assets	54
Section 527. Notice of fiduciary relationship	55
Article 61. Notice of fiduciary relationship	56
Section 528. Refunds and credits	57
Article 62. Authority for abatement, credit, and refund of tax	58
Article 63. Abatement, credit, and refund adjustments	58
Article 64. Claims by collectors	59
Article 65. Claims for credit or refund by donors	59
Article 66. Claims for refund in case of judgment obtained against collector	61
Article 67. Claims for refund in case of judgment obtained against the United States	62
Article 68. Limitations upon the crediting and refunding of taxes paid	62
Section 607, Revenue Act of 1928. Effect of expiration of period of limitation against United States	63
Section 608, Revenue Act of 1928. Effect of expiration of period of limitation against taxpayer	63
Section 609, Revenue Act of 1928. Erroneous credits	64
Section 610, Revenue Act of 1928. Recovery of amounts erroneously refunded	64
Article 69. Erroneous refunds and credits	64
Section 606, Revenue Act of 1928. Closing agreements	65
Article 70. Closing agreements relating to tax liability in respect of internal-revenue taxes	65
Section 3467, Revised Statutes. Liability of fiduciaries	65
Article 71. Personal liability of fiduciaries	65
Section 1104, Revenue Act of 1926, as amended. Examination of records and taking of testimony	66
Section 617, Revenue Act of 1928. Jurisdiction of courts	66
Article 72. Securing evidence—taking testimony	66
Article 73. Power to compel compliance	66
Section 529. Laws made applicable	67
Article 74. Laws made applicable	67
Section 531. Definitions	67
Article 75. Definitions	67
(*a*) Calendar year	67
(*b*) Property within the United States	67
Section 532. Short title	67
Article 76. Short title	67
Section 530. Rules and regulations	67
Article 77. Promulgation of regulations	67
Index	69

REGULATIONS RELATING TO THE GIFT TAX UNDER TITLE III OF THE REVENUE ACT OF 1932

TITLE III—GIFT TAX

(Except as otherwise specified, all section references are to the Revenue Act of 1932)

SECTION 501. IMPOSITION OF TAX.

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States. The tax shall not apply to a transfer made on or before the date of the enactment of this Act.

(c) The tax shall not apply to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.

ARTICLE 1. **Imposition of tax.**—The statute imposes no tax upon property, but subjects to tax transfers of property by gift. The tax is not limited in its imposition to transfers of property without consideration, which in common law are termed gifts, but extends to sales and exchanges for less than an adequate and full consideration in money or money's worth. (See article 8.) The statute taxes all transfers of property made during the calendar year 1932 (after June 6, 1932, the date of the enactment of the Revenue Act of 1932) and each calendar year thereafter (other than gifts specified in subsection (b) of section 504) to the extent that they are donative in character and exceed the deductions authorized by section 505. The tax applies to all individuals, whether resident or nonresident, but, in the case

of a nonresident not a citizen of the United States, the tax applies only to transfers of property situated within the United States. For the definition of "resident" and "citizen," see article 4. With reference to the situs of property, see article 18.

ART. 2. **Transfers reached.**—The statute imposes a tax whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible. Thus, for example, a taxable transfer may be effected by the declaration of a trust, the forgiving of a debt, the assignment of a judgment, the assignment of the benefits of a contract of insurance, or the transfer of cash, certificates of deposit, or Federal, State, or municipal bonds. Inasmuch as the tax also applies to gifts indirectly made, all transactions whereby property or property rights or interests are donatively passed or conferred upon another, regardless of the means or device employed, constitute gifts subject to tax. In the following examples of transactions resulting in taxable gifts, it will be understood that the transactions occurred after the date of the enactment of the statute (June 6, 1932), and were not for an adequate and full consideration in money or money's worth:

(1) The transfer of property by a corporation without an adequate and full consideration in money or money's worth to B is a gift from the stockholders of the corporation to B.

(2) The transfer of property to B where there is imposed upon B the obligation of paying a commensurate annuity to C is a gift to C.

(3) The payment of money or the transfer of property to B in consideration whereof B is to render a service to C, is a gift to C or both to B and C, depending on whether the service to be rendered by B to C is or is not an adequate and full consideration in money or money's worth for that which is received by B.

(4) Where A creates a joint bank account for himself and B, there is a gift to B when he draws upon the account for his own benefit to the extent of the amount drawn.

(5) The irrevocable assignment of a life insurance policy, or the naming of the beneficiary of a policy without retaining any of the legal incidents of ownership therein, constitutes a gift in the amount of the net cash surrender value, if any, plus the prepaid insurance adjusted to the date of the gift.

(6) Where premiums on a life insurance policy are paid by an insured who has none of the legal incidents of ownership in the policy, and the beneficiary is other than the insured's estate, each premium payment is a gift in the amount thereof.

(7) Where A purchases property and has the title thereto conveyed to himself and wife as tenants by the entirety, there is a gift to the wife in the amount of the value of her interest in the property determined in accordance with the law governing the rights of the tenants, the probability of survivorship being determined by tables of mortality. (See article 19, subdivision (8).)

ART. 3. **Transfers in trust.**—Where property is transferred in trust without an adequate and full consideration in money or money's worth and without the reservation of the power to revest in the donor title to such property, the transfer is a gift, but, where the donor reserves such power, the transfer does not constitute a gift within the meaning of the statute. The relinquishment or termination, without an adequate and full consideration in money or money's worth, of the power to revest in the donor title to property transferred in trust, is a gift of such property at the time of the relinquishment or termination of the power, except where the power is terminated by the donor's death. The payment of income to a beneficiary of a trust, other than the donor, is a gift of such income where the donor has the power to revest in himself title to the trust property. For the purposes of these regulations a donor shall be considered as having the power to revest in himself title to the property transferred in trust where he has such power in conjunction with any person not having a substantial adverse interest in the disposition of the trust property or the income therefrom. A trustee, as such, is not a person having a substantial adverse interest in the disposition of the trust property or the income therefrom. Where the power to revest in the donor title to property transferred in trust reposes in him in conjunction with any other person having a substantial adverse interest in the disposition of the property or the income therefrom or where the power is in such other person alone, the transfer is subject to tax as though no such power existed.

ART. 4. **Citizenship and residence.**—The statute imposes the tax upon the transfer of property by gift made by any individual, resident or nonresident, but provides that in the case of a nonresident not a citizen of the United States the tax shall apply to a transfer only if the property is situated within the United States. (See article 18.) Where the donor is a citizen of the United States, whether a resident or a nonresident thereof, or is a resident of the United States, whether a citizen thereof or an alien, the tax applies regardless of where the property, whether real or personal, is situated.

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Every person born or naturalized in the United States (including citizens and residents of possessions of the United States who have been made citizens of the United States by treaty or Act of Congress) who owes his allegiance to and is entitled to the protection of the United States is a citizen thereof. When any naturalized citizen has left the United States and resided for two years in the foreign country from which he came or five years in any other foreign country, it is presumed that he has ceased to be a citizen of the United States. This presumption does not apply, however, to residence abroad when the United States was at war, nor does it apply in the case of individuals born in the United States. For example, if a subject of the King of Sweden, after being naturalized in the United States, returned to Sweden and resided there for two years prior to April 6, 1917, he is presumed once more to be an alien. However, even though an individual born in the United States of either citizen or alien parents resided in a foreign country for a number of years, he would still be a citizen of the United States unless he had become naturalized in or taken an oath of allegiance to the foreign country of residence or some other foreign state. A person who has filed his declaration of intention of becoming a citizen of the United States but who has not yet received his final citizenship papers is an alien.

A resident is one who has his domicile in the United States (see section 1111 (a) (10) and article 18) at the time of the gift. All others are nonresidents. A person acquires a domicile in a place by living there for even a brief period of time with no definite present intention of moving therefrom. Residence without the requisite intention to remain indefinitely will not suffice to constitute domicile, nor will intention to change domicile effect such change unless accompanied by an actual removal.

SEC. 502. COMPUTATION OF TAX.

The tax for each calendar year shall be an amount equal to the excess of—

(1) a tax, computed in accordance with the Rate Schedule hereinafter set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(2) a tax, computed in accordance with the Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

GIFT TAX RATE SCHEDULE

Upon net gifts not in excess of $10,000, three-fourths of 1 per centum.

$75 upon net gifts of $10,000; and upon net gifts in excess of $10,000 and not in excess of $20,000, 1½ per centum in addition of such excess.

$225 upon net gifts of $20,000; and upon net gifts in excess of $20,000 and not in excess of $30,000, 2¼ per centum in addition of such excess.

$450 upon net gifts of $30,000; and upon net gifts in excess of $30,000 and not in excess of $40,000, 3 per centum in addition of such excess.

$750 upon net gifts of $40,000; and upon net gifts in excess of $40,000 and not in excess of $50,000, 3¾ per centum in addition of such excess.

$1,125 upon net gifts of $50,000; and upon net gifts in excess of $50,000 and not in excess of $100,000, 5 per centum in addition of such excess.

$3,625 upon net gifts of $100,000; and upon net gifts in excess of $100,000 and not in excess of $200,000, 6½ per centum in addition of such excess.

$10,125 upon net gifts of $200,000; and upon net gifts in excess of $200,000 and not in excess of $400,000, 8 per centum in addition of such excess.

$26,125 upon net gifts of $400,000; and upon net gifts in excess of $400,000 and not in excess of $600,000, 9½ per centum in addition of such excess.

$45,125 upon net gifts of $600,000; and upon net gifts in excess of $600,000 and not in excess of $800,000, 11 per centum in addition of such excess.

$67,125 upon net gifts of $800,000; and upon net gifts in excess of $800,000 and not in excess of $1,000,000, 12½ per centum in addition of such excess.

$92,125 upon net gifts of $1,000,000; and upon net gifts in excess of $1,000,000 and not in excess of $1,500,000, 14 per centum in addition of such excess.

$162,125 upon net gifts of $1,500,000; and upon net gifts in excess of $1,500,000 and not in excess of $2,000,000, 15½ per centum in addition of such excess.

$239,625 upon net gifts of $2,000,000; and upon net gifts in excess of $2,000,000 and not in excess of $2,500,000, 17 per centum in addition of such excess.

$324,625 upon net gifts of $2,500,000; and upon net gifts in excess of $2,500,000 and not in excess of $3,000,000, 18½ per centum in addition of such excess.

$417,125 upon net gifts of $3,000,000; and upon net gifts in excess of $3,000,000 and not in excess of $3,500,000, 20 per centum in addition of such excess.

$517,125 upon net gifts of $3,500,000; and upon net gifts in excess of $3,500,000 and not in excess of $4,000,000, 21½ per centum in addition of such excess.

$624,625 upon net gifts of $4,000,000; and upon net gifts in excess of $4,000,000 and not in excess of $4,500,000, 23 per centum in addition of such excess.

$739,625 upon net gifts of $4,500,000; and upon net gifts in excess of $4,500,000 and not in excess of $5,000,000, 24½ per centum in addition of such excess.

$862,125 upon net gifts of $5,000,000; and upon net gifts in excess of $5,000,000 and not in excess of $6,000,000, 26 per centum in addition of such excess.

$1,122,125 upon net gifts of $6,000,000; and upon net gifts in excess of $6,000,000 and not in excess of $7,000,000, 27½ per centum in addition of such excess.

$1,397,125 upon net gifts of $7,000,000; and upon net gifts in excess of $7,000,000 and not in excess of $8,000,000, 29 per centum in addition of such excess.

$1,687,125 upon net gifts of $8,000,000; and upon net gifts in excess of $8,000,000 and not in excess of $9,000,000, 30½ per centum in addition of such excess.

$1,992,125 upon net gifts of $9,000,000; and upon net gifts in excess of $9,000,000 and not in excess of $10,000,000, 32 per centum in addition of such excess.

$2,312,125 upon net gifts of $10,000,000; and upon net gifts in excess of $10,000,000, 33½ per centum in addition of such excess.

ART. 5. **Computation of tax.**—The first step in the computation of the tax liability is to ascertain the net gifts for the calendar year. (See article 9.) The tax does not apply to transfers made on or before the date of the enactment of the Revenue Act of 1932 (June 6, 1932). Therefore, gifts made on or before such date should be ignored in computing the net gifts. The second step is to add to the net gifts for the calendar year the sum of the net gifts for each of the preceding calendar years. The sum of the net gifts for the preceding calendar years should be computed in the same manner as the net gifts for the calendar year, considering only gifts made after the date of the enactment of the Revenue Act of 1932. The third step is to compute the tax in accordance with the rate schedule (see article 6) upon the aggregate sum of the net gifts for the calendar year and the preceding calendar years, and from the amount of the tax so computed to subtract the amount of the tax computed in accordance with the rate schedule upon the sum of the net gifts for the preceding calendar years. The tax for the calendar year 1932, and for the calendar years subsequent to 1932 where no net gifts were made during prior calendar years subsequent to the date of the enactment of the Revenue Act of 1932, is the tax computed in accordance with the rate schedule on the net gifts for such calendar year.

ART. 6. **Tax rate schedule.**—A tabulation of the rate schedule is given below:

Gift tax rate schedule

(1) Amount of net gifts	(2) Tax on amount in column 1	(3) Net gifts in excess of column 1 not in excess of—	(4) Per cent of excess in addition to tax in column 2
		$10,000	¾
$10,000	$75	20,000	1½
20,000	225	30,000	2¼
30,000	450	40,000	3
40,000	750	50,000	3¾
50,000	1,125	100,000	5
100,000	3,625	200,000	6½
200,000	10,125	400,000	8
400,000	26,125	600,000	9½
600,000	45,125	800,000	11
800,000	67,125	1,000,000	12½
1,000,000	92,125	1,500,000	14
1,500,000	162,125	2,000,000	15½
2,000,000	239,625	2,500,000	17
2,500,000	324,625	3,000,000	18½
3,000,000	417,125	3,500,000	20
3,500,000	517,125	4,000,000	21½
4,000,000	624,625	4,500,000	23
4,500,000	739,625	5,000,000	24½
5,000,000	862,125	6,000,000	26
6,000,000	1,122,125	7,000,000	27½
7,000,000	1,397,125	8,000,000	29
8,000,000	1,687,125	9,000,000	30½
9,000,000	1,992,125	10,000,000	32
10,000,000	2,312,125		33½

ART. 7. **Application of rate schedule.**—The tax upon certain sums of net gifts is shown in column 2 of the tabulation. The tax upon any sum of net gifts not shown in the tabulation is computed by adding to the tax upon the largest amount shown in column 1 of the tabulation which is less than the sum of the net gifts the tax upon the excess of that amount at the rate indicated in column 4 of the tabulation. An illustration of the application of the rate schedule is as follows:

The tax upon net gifts of $52,500 would be $1,250, computed as follows:

Tax on $50,000 (from column 2 of table)	$1,125
Tax on $2,500 at 5 per cent (rate from column 4 of table)	125
Tax on net gifts of $52,500	1,250

SEC. 503. TRANSFER FOR LESS THAN ADEQUATE AND FULL CONSIDERATION.

Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this title, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

ART. 8. **Transfers for less than an adequate and full consideration.**—Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration constitutes a gift within the meaning of the statute. If the consideration is not reducible to a money value, as in the case of love and affection, promise of marriage, etc., it is to be wholly disregarded, and the entire value of the property transferred constitutes the amount of the gift. A sale, exchange, or other transfer of property (see article 2) in the ordinary course of business, where the transaction is bona fide and at arm's length and free from any donative intent, shall be considered as made for an adequate and full consideration in money or money's worth.

SEC. 504. NET GIFTS.

(a) **General definition.**—The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in section 505.

(b) **Gifts less than $5,000.**—In the case of gifts (other than of future interests in property) made to any person by the donor during the calendar year, the first $5,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

ART. 9. **Net gifts.**—The tax is computed (see articles 5, 6, and 7) upon the amount of the donor's net gifts. The term "net gifts" means the "total amount of gifts" computed as provided in section 504 (article 10) less the deductions provided in section 505. (See articles 12 and 13.)

ART. 10. **Total amount of gifts.**—The statute provides that in determining the total amount of gifts during the calendar year the value of a gift or gifts (other than of a future interest in property) made to any one person is reduced by $5,000. For example, where the donor during a calendar year makes a gift to A of $5,000, a gift to B of $6,000, and two gifts to C of $3,000 each, the total amount of the donor's gifts during such year is $2,000. Gifts made during the calendar year to any one person of $5,000 or less should not be returned unless the gifts consisted of a future interest in property. Gifts of future interests in property are required to be included in the total gifts even though the amount of such gifts is $5,000 or less.

ART. 11. **Future interests in property.**—The gift of a future interest in property, regardless of the amount thereof, is to be included in determining the total amount of gifts made during any calendar year. A future interest in property is any interest or estate in property, whether vested or contingent, which is limited to commence in use, possession, or enjoyment at some future date or time. Gifts of such interests are taxable subject only to the deductions authorized by section 505. For the valuation of future interests, see article 19.

The following example will illustrate the manner of ascertaining the total amount of gifts and the amount of "net gifts" subject to tax: A resident donor gives $10,000 in cash to each of his two sons and conveys, without a valuable consideration, property of the value of $100,000 to a trustee who is to pay the income to the donor's wife during her lifetime and at her death deliver the property to his two daughters. There should be subtracted $5,000 from each of the $10,000 gifts to the sons, and $5,000 from the value of the life estate given to the wife, assuming that the value of her estate equals or exceeds that amount. The interests of the daughters in the trust property being future interests, no such subtraction is to be made therefrom. The total amount of gifts is $105,000 ($120,000−$15,000), from which is deductible the specific exemption of $50,000 authorized by section 505(a)(1). (See article 12.) Assuming the entire $50,000 specific exemption is claimed, the amount of the net or taxable gifts is $55,000.

SEC. 505. DEDUCTIONS.

In computing net gifts for any calendar year there shall be allowed as deductions:

(a) **Residents.**—In the case of a citizen or resident—

(1) SPECIFIC EXEMPTION.—An exemption of $50,000, less the aggregate of the amounts claimed and allowed as specific exemption for preceding calendar years.

(2) CHARITABLE, ETC., GIFTS.—The amount of all gifts made during such year to or for the use of—

(A) the United States, any State, Territory, or any political subdivision therof, or the District of Columbia, for exclusively public purposes;

(B) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(C) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(D) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(E) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924.

(b) Nonresidents.—In the case of a nonresident not a citizen of the United States, the amount of all gifts made during such year to or for the use of—

(1) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) a domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(3) a trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; but only if such gifts are to be used within the United States exclusively for such purposes;

(4) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used within the United States exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(5) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(6) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924.

(c) The deductions provided in subsection (a) (2) or (b) shall be allowed only to the extent that the gifts therein specified are included in the amount of gifts against which such deductions are applied.

ART. 12. **Specific exemption.**—There may be deducted from the total amount of gifts (see article 1) made by any donor who was a citizen or resident of the United States during the calendar year, a specific exemption of $50,000 less the sum of the amounts claimed and allowed as an exemption in prior calendar years. The provision permitting the deduction of a $50,000 exemption is so limited that the exemption is allowed a donor but once regardless of the number of calendar years in which a donor makes gifts. The exemption, at the option of the donor, may be taken all in one year or spread over a period

of years in such amounts as he sees fit, but after specific exemptions totaling $50,000 have been claimed and allowed, no further exemption is allowable.

Section 505 (a) (1) provides for the allowance of the specific exemption of $50,000 only in the case of a citizen or resident of the United States. Thus nonresident aliens are not entitled to such exemption. The amount of the "net gifts" of nonresident aliens should be computed by deducting from the value of the property situated in the United States which was the subject of a gift only the value of such property, if any, which was transferred for public, charitable, religious, etc., uses.

ART. 13. **Charitable, etc., gifts.**—In computing the net gifts made during the calendar year, there may be deducted from the total amount of gifts made by any donor who was a citizen or resident of the United States, the amount of all gifts made to or for the use of (A) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; or (B) any corporation, trust, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, provided no part of the net earnings of such organization inures to the benefit of any private shareholder or individual; or (C) a fraternal society, order, or association, operating under the lodge system, provided such gifts are to be used by such fraternal society, order, or association exclusively for one or more of the purposes enumerated in (B); or (D) any organization of war veterans or auxiliary unit or society thereof if such organization, auxiliary unit, or society thereof is organized in the United States or any of its possessions, and if no part of its net earnings inures to the benefit of any private shareholder or individual; or (E) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924.

The right to deduct the amount of all charitable, etc., gifts made by nonresidents of the United States who are aliens is governed by the same rules as those applying to gifts made by citizens of the United States and residents thereof, subject, however, to the two following exceptions, namely: (1) If the gift be made to or for the use of a corporation, such corporation must be one created or organized under the laws of the United States or of any State or Territory; and (2) if made to or for the use of a trust, or community chest, fund, or foundation, or a fraternal society, order, or association, operating under the lodge system, the gift must be for use within

the United States exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals.

The deduction is not limited in the case of donors who are citizens or resident aliens to gifts to or for the use of domestic corporations, or for use within the United States when made to a trust, or community chest, fund, or foundation, or a fraternal society, order, or association, operating under the lodge system.

When money or other property is so given that the income is, for the duration of a life or a term of years, to be paid to the donor or other individual, or is to be used for a purpose not described in section 505 (a) (2) or (b), and the property is then to be devoted exclusively to some one or more of the uses described in section 505 (a) (2) or (b), only the present worth of the remainder is deductible. To determine the present worth or value of such remainder (that is, its value as of the date of the gift), the amount of the money or the value of the property transferred should be multiplied by the appropriate factor in column 3 of Table A or B, a part of article 19.

ART. 14. **Religious, charitable, scientific, literary, and educational organizations.**—The corporation, or trust, or community chest, fund, or foundation to which a gift is made must meet three tests to entitle the donor to deduct the amount of the gift: (1) It must be organized and operated for one or more of the purposes specified in the statute; (2) it must be organized and operated *exclusively* for such purpose or purposes; and (3) no part of its net earnings shall inure to the benefit of private shareholders or individuals.

The donor is not deprived of the right to deduct an amount equal to the value of property so transferred by reason of the fact that private individuals are the recipients of the benefits which the organization dispenses. Such right is lost, however, where any part of the net earnings of the organization inures to the benefit of a private shareholder or individual.

ART. 15. **Proof required.**—In order to prove the right to this deduction, the donor must submit such documents or evidence as may be requested by the Commissioner.

ART. 16. **Charitable, etc., gifts with power to divert.**—Where a fraternal society, order, or association, operating under the lodge system, is empowered to divert a part of the property or fund transferred by gift, to a use or purpose which would have rendered it, to the extent that it is subject to such power, not deductible had it been directly transferred by the donor for such use or purpose, deduction will be limited to that part of the property or fund which is not subject to the exercise of the power.

SEC. 506. GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

ART. 17. **Gifts made in property.**—A gift made in property is subject to the tax in the same manner as a gift of cash. Where a gift is made in property, the amount of the gift is the value of the property at the date of the gift.

ART. 18. **Situs of property.**—The statute imposes a tax upon gifts made by citizens of the United States, residents or nonresidents thereof, and upon those made by residents of the United States, citizens or aliens, irrespective of whether the property transferred be situated within or without the United States. But gifts by nonresidents of the United States who are not citizens thereof (see article 4) are subject to tax only where the property transferred is, at the time of the transfer, situated within the United States.

Real estate and tangible personal property of a nonresident, not a citizen of the United States, are situated in the United States when physically therein. Certificates of stock, bonds, bills, notes, and other written evidences of intangible property which are treated as being the property itself, when physically in the United States are property situated therein.

Intangible personal property, including such intangibles as are described in the last preceding paragraph, has a situs within the United States where consisting of a property right issuing from or enforceable against a corporation (public or private) organized in the United States or a person who is a resident of the United States. As examples, the following may be given: A simple debt or other chose in action for which such a corporation or person is liable, an insurance contract, corporate stock, bond, note, etc., issued by such a corporation or person.

Paragraph (10) of section 1111 (a) of the Revenue Act of 1932 defines the term "United States," when used in a geographical sense, as including only the States, the Territories of Alaska and Hawaii, and the District of Columbia. Paragraph (1) of the same section defines the term "person" to mean an individual, a trust or estate, a partnership, or a corporation.

ART. 19. **Valuation of property.**—(1) *General.*—The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. Where the property is sold within a reasonable period after the date of the gift, and it is shown that the selling price reflects the fair market value thereof

as of the date of the gift, the selling price will be accepted as the amount of the gift. All relevant facts and elements of value should be considered in every case.

(2) *Real estate.*—In returning a gift of real estate, the local assessed value thereof should not be returned as the value of the gift unless such value represents the fair market value of the property as of the date of the gift. (See article 24 for manner of listing and describing real estate in returns.)

(3) *Stocks and bonds.*—The value of stocks and bonds listed upon a stock exchange should be determined by taking the mean between the highest and lowest quoted selling prices upon the date of the gift, except where such selling prices do not reflect the fair market value of the gift. If the gift was made on Sunday or on a holiday, the transactions of the next previous business day will govern. If there were no sales on the date of the gift, the value should be determined by taking the mean between the highest and lowest quoted selling prices upon the nearest date either before or after the date of the gift, if within a reasonable period. If the security is listed upon more than one exchange, the records of the principal exchange should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

If the securities are not listed upon an exchange, but are dealt in actively through brokers, or have an active market, the value should be determined by taking the sale price as of the date of the gift, or, where there was no sale on that date, of the nearest date thereto upon which a sale was made, if within a reasonable period. Securities in which there are occasional transactions, but which are not dealt in actively enough to establish a fair market value, should be valued upon the basis of the nearest sale to the date of the gift, provided such sale was made in the normal course of business between a willing buyer and a willing seller, and within a reasonable period from the date of the gift. Where quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the donor should preserve in his files the letters furnishing such quotations, or evidence of sale, for inspection when the return is verified by an investigating officer.

Where securities are regularly quoted on a bid and asked basis, and actual sales are not available, the mean of the bid and asked prices as of the date of the gift, or the nearest date thereto where not quoted as of the date of the gift, will be accepted as the value. In the case of corporate or other bonds for which there is no active market, the value is to be determined by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors.

Where there is no active market for a particular security (whether listed or unlisted), or where the number of units thereof sold from time to time are greatly disproportionate to the number constituting the gift, and the donee within a reasonable time subsequent to the gift makes a bona fide sale of all or a portion thereof, the price realized per unit will be accepted in determining the value of the gift where it appears that effort was made to secure the widest market possible, and the sale was not limited to a small number of the units as compared with the number received, or made merely for the purpose of fixing value.

Stock in a close corporation should be valued upon the basis of the company's net worth, earning and dividend-paying capacity, and all other factors having a bearing upon the value of the stock. Complete financial and other data upon which the donor bases his valuation should be submitted in duplicate with the return.

Where, as to any particular security, conditions of sale or ownership are such that the fair market value, determined as already indicated, would not afford a proper basis for valuation, the Commissioner, on final audit, will establish the value by considering all relevant factors. In any case where the donor contends that the value as established by the general rules already given is not the fair market value as of the date of the gift, the evidence upon which he bases his contention should be filed with the return.

Where a gift is made of securities pledged to secure a loan, the full value of such securities and the amount of the loan which they are pledged to secure should be indicated on the return.

(4) *Interest in business.*—Care should be taken to arrive at an accurate valuation of any business which the donor transfers without an adequate and full consideration in money or money's worth, whether the interest tranferred is that of a partner or of a proprietor. A fair appraisal as of the date of the gift should be made of all the assets of the business, tangible and intangible, including good will, and the business should be given a net value equal to the amount which a willing purchaser, whether an individual or a corporation, would pay therefor to a willing seller in view of the net value of the assets of the business and its demonstrated earning capacity. Special attention should be given to fixing an adequate figure for the value of the good will of the business.

The factors hereinbefore stated relative to the valuation of other property, where applicable, will be considered in determining the valuation of a proprietary or partnership interest in the business. All evidence bearing upon such valuation should be submitted with the return, including copies of reports in any case where examinations of the business have been made by accountants, engineers, or any technical experts as of or near the date of the gift.

(5) *Notes, secured and unsecured.*—The value of notes, whether secured or unsecured, will be presumed to be the amount of unpaid principal, plus accrued interest to the date of the gift, unless the donor establishes a lower value. Unless returned at face value, plus accrued interest, it must be shown by satisfactory evidence that the note is worth less than the unpaid amount because of the interest rate, or date of maturity, or other cause, or that the note is uncollectible in part by reason of the insolvency of the party or parties liable, or for other cause, and that the property, if any, pledged or mortgaged as security is insufficient to satisfy it.

(6) *Intangibles.*—Intangibles not specifically mentioned in this article should be valued in accordance with the rule laid down in subdivision (1) of this article.

(7) *Annuities, life, remainder, and reversionary interests.*—Where the donor purchases from a life insurance company or other company issuing annuity contracts, an annuity for the donee, the value of the gift is the cost to the donor, except that where the donor reserves the unconditional right to cause the annuity or the cash value thereof to be payable to himself or his creditors, only such payments as are made to the donee prior to the exercise of the reserved right constitutes gifts. The value of annuities otherwise acquired by the donor and by him assigned or in any manner made payable to the donee annually at the end of each year should be determined by using Table A or Table B, a part of this article. If the annuity is payable for the life of an individual, the amount payable annually should be multiplied by the figure in column 2 of Table A opposite the number of years in column 1 of such table nearest the age of the individual (as of the date of the gift) whose life measures the duration of the annuity, or if payable for a definite number of years the amount payable annually should be multiplied by the figure in column 2 of Table B opposite the number of years in column 1 of such table.

Example: The donee is made the beneficiary of an annuity of $10,000 payable at the end of annual periods during his life. The age of the donee at the date of the gift is 40 years and 8 months. By reference to Table A, the figure in column 2 opposite 41 years, the number nearest to the donee's age, is 14.86102. The value of the gift is, therefore, $148,610.20 (14.86102 multiplied by 10,000).

Example: The donor was entitled to receive an annuity of $10,000 a year payable at the end of annual periods throughout a term of 20 years; the donor, when 15 years have elapsed, makes a gift thereof to his son. By reference to Table B, it is found that the figure in column 2 opposite 5 years, the unexpired portion of the 20-year period, is 4.45182. The present worth of the annuity is, therefore, $44,518.20 (4.45182 multiplied by 10,000).

If the annuity is payable semiannually, quarterly, or monthly, the value should be determined by multiplying the aggregate amount to be paid within a year by the figure in column 2 of Table A opposite the number of years in column 1 nearest the actual age of the person whose life measures the annuity, or the figure in column 2 of Table B opposite the number of years the annuity is payable, as the case may be, and then multiplying the product by 1.01820 for monthly payments, by 1.01488 for quarterly payments, or by 1.00990 for semiannual payments.

Example: If, in the first example above given, the annuity is payable semiannually, the factor, 14.86102, should be multiplied by 1.00990 and the product multiplied by 10,000. The value of the gift is, therefore, $150,081.44 (14.86102×1.00990×10,000).

If the first payment of an annuity for the life of an individual is to be paid at once, the value of the annuity is the sum of the first payment plus the present worth of a similar annuity the first payment of which is not to be made until the end of the first period.

Example: The donee is made the beneficiary for life of an annuity of $50 a month payable from the income of a trust, subject to the right reserved by the donor to cause the annuity to be payable to himself or for the benefit of his creditors or estate. On the day a payment is due, the donor relinquishes his reserved power. The donee is then 50 years of age. The value of the gift is $50 plus the product of $50 times 12 times 12.47032 (see Table A) times 1.01820 (see preceding paragraph), or $7,668.37 [$50 plus ($50×12×12.47032×1.01820)].

If the first payment of an annuity for a definite number of years is to be paid at once, the applicable factor is the product of the factor shown in Table B multiplied by 1.00327 for monthly payments, by 1.00985 for quarterly payments, by 1.01980 for semiannual payments, or by 1.04 for annual payments.

Example: The donee is the beneficiary of an annuity of $50 a month subject to a reserved right in the donor to cause the annuity or the cash value thereof to be paid to himself or his creditors. On the day a payment is due, the donor relinquishes his power. There are 300 payments to be made, including the payment due. The value of the gift is the product of $50 times 12 times 15.62208 (see Table B) times 1.01820 (see second preceding paragraph) times 1.00327 (see preceding paragraph), or $9,572.04 ($50×12×15.62208×1.01820×1.00327).

If an annuity is to be paid during the life of an individual and in any event for a definite number of years, or for more than one life, or in any other manner rendering inapplicable both Table A and Table B, the case may be stated to the Commissioner, who will

thereupon make the computation and advise the donor thereof. In making such calculations where life interests or remainders upon life interests are involved, use will be made of the Actuaries or Combined Experience Table of Mortality, as extended (that being the basis of Table A), with interest at 4 per cent per annum compounded annually.

If a gift consists of the donor's right to receive the entire income of certain property during the life of Z, or for a term of years, and the annual rate of income for a period equal to or exceeding the life expectancy of Z, or for such term of years, is fixed or definitely determinable at the time of the gift, then the value of the gift should be computed as explained above in the case of an annuity. Where the rate of annual income is not determinable, or where the donor is entitled merely to the use of nonincome-producing property, a hypothetical annuity at the rate of 4 per cent of the value of the property should be made the basis of the calculation.

Where the gift is of a remainder or reversionary interest subject to an outstanding life estate, the value of the gift will be obtained by multiplying the value of the property at the date of the gift by the figure in column 3 of Table A opposite the number of years nearest to the age of the life tenant. Where the remainder or reversion is subject to an estate for a term of years, Table B should be used.

Example: The donor transferred by gift property worth $50,000 which he was entitled to receive upon the death of his brother, to whom the income for life had been bequeathed. The brother at the date of the gift was 31 years of age. By reference to Table A, it is found that the figure in column 3 opposite 31 years is 0.31262. The value of the gift is, therefore, $15,631 ($50,000×0.31262).

(8) *Tenancies by the entirety.*—Where the donor purchases property and causes the title thereto to be conveyed to himself and wife as tenants by the entirety, or causes to be created such a tenancy in respect to property already owned by him, and under the law of the jurisdiction governing such tenancy the wife has no right of severance of her interest, the value of the gift is the present worth of her right, if any, to a portion of the income of the property, plus the present worth of her right to absolute title determined upon the basis of the probability of her surviving the donor. Cases involving the value of a right of survivorship may be submitted to the Commissioner, who will make the computation in accordance with recognized actuarial principles and advise the donor thereof.

TABLE A

Table, single life, 4 per cent, showing the present worth of an annuity, or a life interest, and of a reversionary interest

1 Age	2 Annuity, or present value of $1 due at the end of each year during the life of a person of specified age	3 Reversion, or present value of $1 due at the end of the year of death of a person of specified age	1 Age	2 Annuity, or present value of $1 due at the end of each year during the life of a person of specified age	3 Reversion, or present value of $1 due at the end of the year of death of a person of specified age
	Annuity	*Reversion*		*Annuity*	*Reversion*
0	$14. 72829	$0. 39507	51	$12. 17919	$0. 49311
1	17. 30771	. 29586	52	11. 88408	. 50446
2	18. 69578	. 24247	53	11. 58531	. 51595
3	19. 15901	. 22465	54	11. 28325	. 52757
4	19. 41226	. 21491	55	10. 97789	. 53931
5	19. 55301	. 20950	56	10. 66982	. 55116
6	19. 61731	. 20703	57	10. 35931	. 56310
7	19. 62502	. 20673	58	10. 04630	. 57514
8	19. 61097	. 20727	59	9. 73131	. 58726
9	19. 53413	. 21022	60	9. 41474	. 59943
10	19. 45359	. 21332	61	9. 09765	. 61163
11	19. 36943	. 21656	62	8. 78052	. 62383
12	19. 28184	. 21993	63	8. 46412	. 63600
13	19. 19065	. 22344	64	8. 14888	. 64812
14	19. 09590	. 22708	65	7. 83552	. 66017
15	18. 99764	. 23086	66	7. 52476	. 67212
16	18. 89569	. 23478	67	7. 21699	. 68397
17	18. 79010	. 23884	68	6. 91298	. 69565
18	18. 68070	. 24305	69	6. 61301	. 70719
19	18. 56751	. 24740	70	6. 31716	. 71857
20	18. 45038	. 25191	71	6. 02612	. 72976
21	18. 32932	. 25656	72	5. 74003	. 74077
22	18. 20416	. 26138	73	5. 45928	. 75157
23	18. 07471	. 26636	74	5. 18402	. 76215
24	17. 94097	. 27150	75	4. 91463	. 77251
25	17. 80274	. 27682	76	4. 65125	. 78264
26	17. 65984	. 28231	77	4. 39383	. 79254
27	17. 51224	. 28799	78	4. 14286	. 80220
28	17. 35968	. 29386	79	3. 89858	. 81159
29	17. 20225	. 29991	80	3. 66071	. 82074
30	17. 03961	. 30617	81	3. 42900	. 82965
31	16. 87176	. 31262	82	3. 20258	. 83836
32	16. 69846	. 31929	83	2. 98024	. 84691
33	16. 51964	. 32617	84	2. 76106	. 85534
34	16. 33503	. 33327	85	2. 54366	. 86371
35	16. 14437	. 34060	86	2. 32795	. 87200
36	15. 94755	. 34817	87	2. 11384	. 88024
37	15. 74427	. 35599	88	1. 90115	. 88842
38	15. 53421	. 36407	89	1. 69107	. 89650
39	15. 31722	. 37241	90	1. 48540	. 90441
40	15. 09295	. 38104	91	1. 28432	. 91214
41	14. 86102	. 38996	92	1. 09024	. 91961
42	14. 62122	. 39918	93	. 90647	. 92667
43	14. 37356	. 40871	94	. 73687	. 93320
44	14. 11860	. 41852	95	. 58435	. 93906
45	13. 85713	. 42857	96	. 46182	. 94378
46	13. 58958	. 43886	97	. 36698	. 94742
47	13. 31698	. 44935	98	. 24038	. 95229
48	13. 03942	. 46002	99	. 00000	. 96154
49	12. 75716	. 47088			
50	12. 47032	. 48191			

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TABLE B

Table showing the present worth at 4 per cent of an annuity for a term certain, and of a reversionary interest postponed for a term certain

1 Number of years	2 Present worth of an annuity of $1, payable at the end of each year, for a certain number of years	3 Present worth of $1, payable at the end of a certain number of years	1 Number of years	2 Present worth of an annuity of $1, payable at the end of each year, for a certain number of years	3 Present worth of $1, payable at the end of a certain number of years
	Annuity	*Reversion*		*Annuity*	*Reversion*
1	$0. 96154	$0. 961538	16	$11. 65229	$0. 533908
2	1. 88609	. 924556	17	12. 16567	. 513373
3	2. 77509	. 888996	18	12. 65929	. 493628
4	3. 62989	. 854804	19	13. 13394	. 474642
5	4. 45182	. 821927	20	13. 59032	. 456387
6	5. 24214	. 790314	21	14. 02916	. 438834
7	6. 00205	. 759918	22	14. 45111	. 421955
8	6. 73274	. 730690	23	14. 85684	. 405726
9	7. 43533	. 702587	24	15. 24696	. 390121
10	8. 11089	. 675564	25	15. 62208	. 375117
11	8. 76047	. 649581	26	15. 98277	. 360689
12	9. 38507	. 624597	27	16. 32958	. 346816
13	9. 98565	. 600574	28	16. 66306	. 333477
14	10. 56312	. 577475	29	16. 98371	. 320651
15	11. 11839	. 555265	30	17. 29203	. 308319

SEC. 507. RETURNS.

(a) **Requirement.**—Any individual who within the calendar year 1932 or any calendar year thereafter makes any transfers by gift (except those which under section 504 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year which under section 504 is to be included in computing net gifts; (2) the deductions claimed and allowable under section 505; (3) the net gifts for each of the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law.

(b) **Time and place for filing.**—The return shall be filed on or before the 15th day of March following the close of the calendar year with the collector for the district in which is located the legal residence of the donor, or if he has no legal residence in the United States, then (unless the Commissioner designates another district) with the collector at Baltimore, Maryland.

ART. 20. **Persons required to file return.**—Any individual who was a citizen or resident of the United States and who, within the calendar year 1932 or any calendar year thereafter, makes any transfer or transfers by gift (see article 2) exceeding $5,000 in value to any one person, shall file with the collector a return on Form 709. Any such individual is required to file a return if he makes any gift of a future interest in property regardless of its value. Nonresident aliens are similarly required to file returns when such transfers by gift have been made of property situated within the United States.

Individuals only are required to file returns as donors and not trusts, estates, partnerships, or corporations. The return is required even though, because of authorized deductions, a tax may not be due.

Where the donor dies before filing his return, the executor of his will or the administrator of his estate shall file the return. Where the donor becomes legally incompetent before filing his return, his guardian or committee shall file the return.

The return shall not be made by an agent unless by reason of illness, absence, or nonresidence, the person liable for the return is unable to make it within the time prescribed. Mere convenience is not sufficient reason for authorizing an agent to make the return. Where by reason of illness, absence, or nonresidence, a return is made by an agent, such return must be ratified within a reasonable time by the donor or other person liable for its filing; otherwise the return filed by the agent will not be considered the return required by the statute. Supplemental data may be submitted at the time of ratification. The ratification must be in the form of an affidavit, filed with the Commissioner, and must specifically state that the return made by the agent has been carefully examined and that the affiant ratifies such return as his own.

ART. 21. **Donees and trustees required to file notice of gifts.**—All donees and trustees (except such organizations, etc., referred to in section 505 and article 13) receiving gifts in any one calendar year in excess of $5,000, or gifts of a future interest in property regardless of the value, should file a notice of the receipt of such gifts on Form 710, copies of which may be obtained from the Commissioner, or from any United States collector of internal revenue, upon application. When a gift is made in trust notice thereof should be filed by either the beneficiary of the trust or the trustee, but in such case one notice only is required. The notice of receipt of the gift should be filed in duplicate with the United States collector of internal revenue for the district in which the donor resides or with the Commissioner of Internal Revenue at Washington, D. C., on or before the 15th day of March following the close of the calendar year in which the gift was made. The notice of receipt of gift should disclose the following information: (1) Name and address of donor, (2) date of gift, (3) a general description of the property transferred, and (4) the approximate value thereof at the date of the gift.

ART. 22. **Time and place of filing return.**—Gift tax returns must be filed in duplicate on or before the 15th day of March following the close of the calendar year in which gifts are made. The return should be filed with the collector of internal revenue for the district in which is located the legal residence of the donor, or, if he has no legal residence in the United States, then, unless the Commissioner other-

wise designates, with the collector of internal revenue at Baltimore, Md. When the due date for the filing of the return falls on a Sunday or a legal holiday, the due date will be the day following such Sunday or legal holiday. If placed in the mails, the return should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. If a return is made and placed in the mails in due course, properly addressed, and postage paid, in ample time to reach the office of the collector on or before the due date, no penalty will attach should the return not be actually received by such officer until subsequent to that date. As to additions to the tax in the case of failure to file a return within the period prescribed, see section 519 and article 52.

Section 3176, Revised Statutes, as amended by section 619(d), Revenue Act of 1928, provides:

> * * * If the failure to file a return (other than a return of income tax) or a list is due to sickness or absence, the collector may allow such time, not exceeding 30 days, for making or filing the return or list as he deems proper. * * *

Such extension may be granted either before or after the due date. An extension of time for filing the return does not in itself operate to extend the time for the payment of the tax.

ART. 23. **Form of return.**—The return must be made on Form 709, copies of which will be supplied by the collector upon application. The return must be filed in duplicate and under oath, and therein must be listed and set forth all gifts (other than future interests in property) made by the donor during the calendar year to any one person to the extent that the aggregate value thereof exceeds $5,000 and all gifts of future interests in property without regard to the value thereof. The return shall also set forth the market value of all gifts made in property, including gifts resulting from sales and exchanges of property made within the calendar year for less than an adequate and full consideration in money or money's worth (see article 8), giving the fair market value of the property sold or exchanged and that of the consideration received by the donor, both as of the date of sale or exchange. The deductions claimed must also be fully set forth. The instructions printed on the form of return should be carefully followed. All documents and vouchers used in preparing the return should be retained by the donor so as to be available for inspection by representatives of the Bureau whenever required. Duplicate certified or verified copies of all documents required by the instructions printed on the form, or any documents which the donor may desire to submit, should be filed with the return.

In addition to the list of gifts for the calendar year for which the return is filed, the return shall set forth the net gifts as defined by section 504 (see article 9) for each of the preceding calendar years and the tax imposed upon the sum of the net gifts for such preceding calendar years computed in accordance with the rate schedule set forth in section 502. (See article 7.)

The tax, if any, upon the amount of the net gifts made by the donor during the calendar year should be computed as provided in article 5 and entered upon the return in the space provided on the form.

ART. 24. **Description of property listed on return.**—In listing upon the return the property comprising the gifts made during the calendar year, the description thereof should be such that the property may be readily identified. Thus, a legal description should be given of each parcel of real estate, and if located in a city the name of street and number, its area, and, if improved, a short statement of the character of the improvements. Description of bonds should include the number transferred, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number where there is more than one issue, the exchange upon which listed, or the principal business office of the corporation, if unlisted. Description of stocks should include number of shares, whether common or preferred, and, if preferred, what issue thereof, par value, quotation at which returned, exact name of corporation, and, if the stock is unlisted, the location of the principal business office and State in which incorporated and the date of incorporation. If a listed security, state principal exchange upon which sold. Description of notes should include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, and date to which interest has been paid. Description of land contracts transferred should include name of vendee, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal, interest rate and date prior to gift to which interest has been paid. Description of life insurance policies should give the name of the insurer, number of policy, face value, amount of premium, and the net cash surrender value at the date of the gift. In describing an annuity, the name and address of the grantor of the annuity should be given, or if payable out of a trust or other fund such a description as will fully identify such trust or fund. If the annuity is payable for a term of years, the duration of the term and the date on which it began should be given, and if payable for the life of any person, the date of birth of such person should be stated. Judgments should be described by giving

the title of the cause and the name of the court in which rendered, date of judgment, name and address of judgment debtor, amount of judgment, rate of interest to which subject, whether any payments have been made thereon, and, if so, when and in what amounts.

SEC. 508. RECORDS AND SPECIAL RETURNS.

(a) By donor.—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) To determine liability to tax.—Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this title.

ART. 25. **Aids to determination and collection of tax.**—In assessing and collecting gift taxes, the Commissioner has the benefit of all existing internal revenue laws in so far as such laws are applicable. (See section 529.) The Commissioner may require any person to keep specific records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may prescribe in order that he may determine whether such person is liable for the tax. In accordance with this provision, every individual shall, for the purpose of determining the total amount of his gifts, keep such permanent books of account or records as are necessary to establish the amount of his total gifts (limited as provided in section 504 (b)), together with the deductions allowable in determining the amount of his net gifts, and the other information required to be shown in a gift tax return.

ART. 26. **Supplemental data.**—In order that the Commissioner may determine the correct tax the donor shall furnish such supplemental data as may be deemed necessary by the Commissioner. It is, therefore, the duty of the donor to furnish upon request copies of all documents relating to his gift or gifts, appraisal lists of any items included in the total amount of gifts, copies of balance sheets, or other financial statements relating to the value of stock constituting the gift, and any other information obtainable by him that may be found necessary in the determination of the tax. (See article 19.)

ART. 27. **Returns confidential.**—All gift tax returns are treated as privileged communications and may not be exhibited to any person other than the donor or his duly authorized agent, except as stated in article 28. This requirement will be rigidly enforced, and extends to information of a private nature submitted or obtained in connection with a return. The requirement does not operate to prevent

internal revenue officers from disclosing the returned amount of any gift or the amount of any specific deduction, where such disclosure is necessary in order to arrive at a correct determination of the tax. This right of disclosure, however, does not extend to such information as the total amount of the gifts, the amount of tax, or other general data. Nor are the records in possession of the Bureau, whether on file with the Commissioner or the collector, open to inspection, except as provided in article 28.

ART. 28. **Disclosure to persons having material interest.**—Where any person other than the donor has a material interest in ascertaining any fact disclosed by the return, or in obtaining information as to the payment of the tax, or where an officer of a State or Territory requires information contained in the return or obtained upon investigation for his official use in connection with an estate, inheritance, legacy, succession, or other tax of the State or Territory, he shall make a written application to the Commissioner of Internal Revenue for such information, setting forth the nature of his interest and the purpose of his application. The Commissioner will review the application, and, if it is approved, the collector will be directed to exhibit the return to the applicant, or give him such information as is specified, or the Commissioner may permit an inspection of, or furnish a copy of, the return on file in the Bureau, or may furnish such information as he deems advisable.

Under no circumstances shall the collector give information to persons other than the donor except upon written order of the Commissioner, and then only to the extent authorized by such order.

If an attorney or other person asks a ruling on a question of law arising in a specific case, the Commissioner will require satisfactory evidence of the right to obtain such ruling. Hypothetical questions, however, can not be answered.

For regulations governing the recognition of attorneys, agents, and other persons representing claimants before the Treasury Department, reference should be made to Treasury Department Circular No. 230, as revised, copies of which may be obtained upon application to the secretary of the Committee on Enrollment and Disbarment, Treasury Department, Washington, D. C.

ART. 29. **Where no return filed, or a false or fraudulent return filed.**—Section 3176, Revised Statutes, as amended by section 619 (d), Revenue Act of 1928, provides:

If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such

case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes. * * *

Where a tax is found to be due upon such a return, the donor shall be liable for penalties as well as for the tax. For penalties, see sections 519, 520, and 525 and articles 52, 53, and 58.

SEC. 509. PAYMENT OF TAX.

(a) Time of payment.—The tax imposed by this title shall be paid by the donor on or before the 15th day of March following the close of the calendar year.

(b) Extension of time for payment.—At the request of the donor, the Commissioner may extend the time for payment of the amount determined as the tax by the donor, for a period not to exceed six months from the date prescribed for the payment of the tax. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(c) Voluntary advance payment.—A tax imposed by this title, may be paid, at the election of the donor, prior to the date prescribed for its payment.

(d) Fractional parts of cent.—In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(e) Receipts.—The collector to whom any payment of any gift tax is made shall, upon request, grant to the person making such payment a receipt therefor.

ART. 30. **Date of payment.**—The tax is required to be paid by the donor on or before the 15th day of March following the close of the calendar year in which the gifts were made, unless an extension of time for payment thereof has been granted by the Commissioner. (See article 31.)

ART. 31. **Extension of time for payment of tax.**—The Commissioner, at the request of the donor, may extend the time for payment of the amount determined as the tax by the donor, or any part thereof, for a period not to exceed six months from the date prescribed for the payment of the tax. Any application for such extension should be made to the Commissioner through the collector of internal revenue for the district in which the return was filed, who will make proper record thereof and forward it immediately to the Commissioner. The application should set forth under oath the specific reasons for desiring an extension and should clearly indicate what hardships, if any, would result if the extension were not granted. The amount for which the extension is desired should also be stated. The Commissioner will not consider an application for

an extension of time unless such application is made on or before the due date of the tax for which the extension is desired. As a condition to the granting of such an extension, the Commissioner may require the donor to furnish a bond in an amount not exceeding double the amount of the tax. If a bond is required, it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required. The bond, if required, shall be conditioned upon the payment of the tax and interest assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety upon Federal bonds and shall be subject to the approval of the Commissioner. In lieu of such a bond, the taxpayer may file a bond secured by deposit of Liberty bonds or other bonds or notes of the United States equal in their total par value to an amount not exceeding double the amount of the tax. If an extension of time for payment of the tax is granted, the amount, time for payment of which is so extended, shall be paid on or before the expiration of the period of extension together with interest at the rate of 6 per cent per annum on such amount from the date when the payment should have been made if no extension had been granted until the expiration of the period of the extension. (See section 521 and article 54.)

ART. 32. **Voluntary advance payment.**—The gift tax may be paid at the election of the donor prior to the date prescribed for its payment, that is, prior to the 15th day of March following the close of the calendar year in which the gift or gifts were made. No discount will be allowed for payment in advance of the due date.

ART. 33. **When fractional part of cent may be disregarded.**—In the payment of taxes a fractional part of a cent shall be disregarded, unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent should not be disregarded in the computation of taxes.

ART. 34. **Receipts for taxes.**—Upon request the collector will give a receipt for tax payments. In the case of payments made by check or money order, the canceled check or the money order receipt is usually a sufficient receipt. In case of payments in cash, however, it might be to the donor's interest to require the collector to furnish a receipt.

ART. 35. **Payment by check.**—Collectors may accept uncertified checks in the payment of the tax, provided such checks are collectible at par—that is, for the full amount without any deduction for exchange or other charges. The day on which the check is received will be considered the date of payment so far as the taxpayer is concerned, unless the check is uncollectible.

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All expenses incident to the attempt to collect unhonored checks and their return through the depositary bank must be paid by the drawer of the check to the bank on which it is drawn. (See section 3210 of the Revised Statutes, as amended, reenacted by section 1128 (b) of the Revenue Act of 1926.) Where a check has been returned uncollected by the depositary bank, the collector should proceed to collect the tax as though no check had been given, and the taxpayer will remain liable for payment of the tax and for all interest, legal penalties, and additions, if any attach, to the same extent as though such check had not been tendered. A taxpayer who tenders a certified check in payment of taxes is not released from his obligation until the check has been paid. (See Act of March 2, 1911 (36 Stat., 965).)

ART. 36. **Donor liable for tax.**—The statute provides that the donor shall pay the tax. Where the donor dies before the tax is paid, his executor or administrator shall make payment thereof to the collector. Where there is no duly qualified executor or administrator, heirs, legatees, devisees, and distributees are liable for and required to pay the tax to the extent of the value of their inheritance, bequest, devise, or distributive share of the donor's estate. As to the personal liability of the donee, see article 37, and as to that of the executor, see article 71.

SEC. 510. LIEN FOR TAX.

The tax imposed by this title shall be a lien upon all gifts made during the calendar year, for ten years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gift, shall attach to all the property of the donee (including after-acquired property) except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. If the Commissioner is satisfied that the tax liability has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all of the property from the lien herein imposed.

ART. 37. **Lien for tax.**—A lien attaches upon all gifts made during the calendar year for the amount of the tax imposed upon the gifts made during such year. The lien extends for a period of 10 years from the time the gifts were made, unless the tax is sooner paid. If the tax is not paid when due, the donee of any gift becomes personally liable for the tax to the extent of the value of his gift. Any part of property which was the subject of a gift, sold by the donee to a

bona fide purchaser for an adequate and full consideration in money or money's worth, is divested of the lien, but a like lien to the extent of the value of such gift attaches to all the property of the donee, including after acquired property, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

ART. 38. **Release of lien.**—The statute provides that, if the Commissioner is satisfied that the tax liability has been fully discharged or provided for, he may issue his certificate releasing any or all property from the lien imposed thereon. The issuance of certificates is a matter resting within the discretion of the Commissioner, and certificates will be issued only in cases where there is actual need therefor. The primary purpose of such release is not to evidence payment or satisfaction of the tax but to permit transfer of property free from the lien where it is necessary to clear title. Receipts for payment of tax are issued by the collector. (See article 34.)

Where the tax liability has been fully discharged, or its discharge provided for to the satisfaction of the Commissioner by the applicant for the release of lien filing with the collector a surety bond, or a bond secured by a deposit of Liberty bonds or other bonds or notes of the United States, a certificate may then be issued releasing any or all property from the lien imposed thereon. The tax will be considered fully discharged only when the return has been examined and payment of the tax, including any deficiency determined to be due, has been made. Where the tax liability has not been fully discharged, or provided for as above stated, no general release will be granted, but certificates releasing the lien on particular items of property may be issued by the Commissioner, who may require as a prerequisite, in such amount as he may designate, a partial payment of the tax, a surety bond, or a bond secured by the deposit of Liberty bonds or other bonds or notes of the United States with the collector. As to the character of surety bonds required, see article 31.

The application for a release should be filed with the Commissioner, should explain the circumstances that require the release, and should fully describe the particular items for which the release is desired. If the application is made prior to the filing of the return for gift tax, an affidavit may be required showing the value of the property to be released from the lien, the basis for such valuation, the total amount of gifts made during the calendar year and the prior calendar years subsequent to the enactment of the Revenue Act of 1932, the approximate value of all real estate upon which the lien has attached, and, where the property is to be sold or otherwise transferred, the name and address of the purchaser or transferee and the consideration, if any, paid or to be paid by him.

SEC. 511. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

ART. 39. **Examination of return and determination of tax by the Commissioner.**—As soon as practicable after returns are filed, they will be examined and the amount of tax determined under such procedure as may be prescribed from time to time by the Commissioner. (See section 513 and article 41.)

SEC. 512. DEFINITION OF DEFICIENCY.

As used in this title in respect of the tax imposed by this title the term "deficiency" means—

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

ART. 40. **Deficiency defined.**—Section 512, by its definition of the word "deficiency," provides a term which will apply to any amount of tax determined to be due in excess of the amount of tax reported by the donor upon his return; or in excess of the amount reported by the donor after adjustment made for prior assessments, abatements, credits, refunds, or collections without assessment. In defining the term "deficiency" section 512 recognizes two classes of cases—one, where the taxpayer makes a return showing some tax liability; the other, where the taxpayer makes a return showing no tax liability, or where the taxpayer fails to make a return. Additional tax shown on any so-called "amended return" is a deficiency within the meaning of the Act.

When a donor's tax liability is considered for the first time, the deficiency is the excess of the amount determined to be the correct amount of tax over the amount shown as the tax by the donor on his return, or, if no tax was reported by the donor, the deficiency is the amount determined to be the correct amount of tax. Subsequent information sometimes discloses that the amount previously determined to be the correct amount of tax is less than the correct amount, and that a redetermination of the tax is necessary. In such a case, the deficiency on redetermination is the excess of the amount determined to be the correct amount of tax over the sum of the amount of tax reported by the donor and the deficiency assessed in connection with the previous determination. If it is a case where no tax was reported by the donor, the deficiency is the excess of the amount determined to be the correct amount of tax over the amount of deficiency assessed in connection with the previous determination. If the previous determination resulted in a credit or refund to the taxpayer, the deficiency upon the second determination is the excess of the amount determined to be the correct amount of tax over the amount of tax reported by the donor decreased by the amount of the credit or refund.

SEC. 513. ASSESSMENT AND COLLECTION OF DEFICIENCIES.

(a) **Petition to Board of Tax Appeals.**—If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the donor by registered mail. Within 60 days after such notice is mailed (not counting Sunday as the sixtieth day), the donor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the donor, nor until the expiration of such 60-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection see—

(1) Subsection (d) of this section, relating to waivers by the donor;

(2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

(3) Section 514, relating to jeopardy assessments;

(4) Section 516, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) **Collection of deficiency found by Board.**—If the donor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) **Failure to file petition.**—If the donor does not file a petition with the Board within the time prescribed in subsection (a) the deficiency, notice of which has been mailed to the donor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) **Waiver of restrictions.**—The donor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) **Increase of deficiency after notice mailed.**—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the donor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) **Further deficiency letters restricted.**—If the Commissioner has mailed to the donor notice of a deficiency as provided in subsection (a) of this section, and the donor files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same calendar year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiency before the Board, or in section 514(c), relating to the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 528(c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the donor shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) **Jurisdiction over other calendar years.**—The Board in redetermining a deficiency in respect of any calendar year shall consider such facts with relation to the taxes for other calendar years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other calendar year has been overpaid or underpaid.

(h) **Final decisions of Board.**—For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005 of the Revenue Act of 1926.

(i) **Extension of time for payment of deficiencies.**—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the donor the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the donor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(j) **Address for notice of deficiency.**—In the absence of notice to the Commissioner under section 527 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this title, if mailed to the donor at his last known address, shall be sufficient for the purposes of this title even if such donor is deceased, or is under a legal disability.

ART. 41. **Assessment of deficiency.**—If the Commissioner determines that there is a deficiency in respect of the gift tax imposed by the Revenue Act of 1932, the Commissioner is authorized to notify the donor of the deficiency by registered mail. In the absence of notice to the Commissioner under section 527 (a) of the existence of a fiduciary relationship the Commissioner is authorized to mail the notice of a deficiency to the donor at his last known address, and such notice is sufficient even if the donor is deceased or is under legal disability. Within 60 days after the notice of deficiency is mailed, a petition may be filed with the Board of Tax Appeals for a redetermination of the deficiency. In determining such 60-day period, Sunday is not to be counted as the sixtieth day. Except as stated in subparagraphs (1), (2), (3), (4), and (5), no assessment of deficiency in respect of the tax imposed by the Gift Tax Act of 1932 shall be made until such notice has been mailed to the donor, nor until the expiration of such 60-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. As to the date on which a decision of the Board of Tax Appeals becomes final, see section 1005 of the Revenue Act of 1926 and section 1101 of the Revenue Act of 1932.

(1) The donor may, at any time, by a signed notice in writing filed with the Commissioner, waive the restrictions on the assessment of the whole or any part of the deficiency. The notice must in all cases be filed with the Commissioner. The filing of such notice with the Board does not constitute filing with the Commissioner within the meaning of the Act. After such waiver has been acted upon by the Commissioner and the assessment has been made in accordance with its terms, the waiver can not be withdrawn. Where a waiver of the restrictions on the assessment of the deficiency has been filed, there will be assessed at the same time as the assessment made in accordance with the terms of the waiver interest upon the tax so assessed at the rate of 6 per cent per annum from the due date of the tax to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier. (See section 522 and article 55.)

(2) If a donor is notified of an additional amount of tax due on account of a mathematical error appearing upon the face of his return, such notice is not to be considered as a notice of deficiency and the donor has no right to file a petition with the Board upon the basis of such notice, nor is the assessment of such additional tax prohibited by the provisions of section 513 (a).

(3) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, such deficiency shall be assessed immediately as provided in section 514. (See article 45.)

(4) Upon the adjudication of bankruptcy of a donor in any bankruptcy proceeding or the appointment of a receiver for a donor in any receivership proceedings before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency determined by the Commissioner in respect of the tax shall be assessed immediately irrespective of the provisions of section 513 (a) if such deficiency has not been assessed in accordance with the law prior to the adjudication of bankruptcy or the appointment of the receiver. (See sections 516 and 524 (b) (5) and articles 47 and 57.)

(5) If the Board renders a decision and determines that there is a deficiency, and, if the donor duly files a petition for review of the decision by a circuit court of appeals (or the Court of Appeals of the District of Columbia), the filing of the petition will not operate as a stay of the assessment of any portion of the deficiency determined by the Board, unless he has filed a bond with the Board as provided in section 1001 (c) of the Revenue Act of 1926, as amended by section 603 of the Revenue Act of 1928. If, in such a case, the necessary bond has not been filed by the donor, the amount determined by the Board as a deficiency will be assessed immediately after the filing of such petition. If the Commissioner files a petition for review and the donor has not filed a petition for review within three months after the decision of the Board is rendered, the amount determined by the Board as a deficiency will be assessed immediately after the expiration of the 3-month period. If the Commissioner files a petition for review, and a similar petition is filed by the donor, but the bond required by section 1001 (c) of the Revenue Act, amended as above referred to, has not been filed with the Board, the deficiency will be assessed immediately after the filing of the petition for review by the donor.

If no petition is filed with the Board within the period prescribed, the Commissioner shall assess the amount determined by him as the deficiency and of which he has notified the donor by registered mail. In such case, the Commissioner will not be precluded from determining a further deficiency and notifying the donor thereof by registered mail. Where a petition is filed with the Board, the

entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed by the Commissioner. If the Commissioner mails to the donor notice of a deficiency and the donor files a petition with the Board within the period prescribed, the Commissioner is barred from determining any additional deficiency for the same taxable year except in the case of fraud and except as provided in section 513 (e) relating to the assertion of greater deficiencies before the Board or in section 514 relating to jeopardy assessments. (See article 45.)

ART. 42. **Waiver by donor of restrictions on assessment.**—Where the donor acquiesces in any proposed, tentative, or final determination of the whole or any part of the deficiency, the donor has the right by a signed notice in writing filed with the Commissioner to waive the restrictions on the assessment and collection of such whole or part of the deficiency under the provisions of section 513 (d) above quoted. A form of notice of such waiver for filing with the Commissioner will be supplied the donor upon notice of any proposed, tentative, or final determination of a deficiency. Filing of the notice of waiver will expedite assessment of deficiencies or portions thereof which stops the accrual of interest on the amount assessed until after notice and demand by the collector. As to interest on deficiencies, see section 522 and article 55.

ART. 43. **Collection of deficiency.**—Where a deficiency as redetermined by a decision of the Board which has become final is assessed, or where the donor has not filed a petition with the Board and the deficiency as determined by the Commissioner has been assessed, or the restrictions upon the assessment and collection of the whole or any part of the deficiency provided in subsection (a) of section 513 have been waived and an assessment made in accordance with such waiver, the amount so assessed shall be paid upon notice and demand from the collector. As to deficiencies coming within the provisions of sections 514 and 516, and section 1001 (c) of the Revenue Act of 1926, as amended by section 603 of the Revenue Act of 1928, relating to jeopardy assessments, bankruptcies and receiverships, and deficiencies determined by the Board pending court review, see articles 45, 47, and subparagraph (5) of article 41. As to interest on deficiencies, see section 522 and article 55.

ART. 44. **Extension of time for payment of deficiencies.**—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for payment thereof would result in undue hardship to the donor, the Commissioner, with the approval of the Secretary, may grant an extension of time for the payment of the deficiency or any part thereof for a period of time not in excess of 18 months and in exceptional cases for a further

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period not in excess of 12 months. The term "undue hardship" means more than an inconvenience to the donor. It must appear that substantial financial loss or sacrifice would result to the donor from making payment of the deficiency at the due date. The Act provides that no extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations or to fraud with intent to evade tax.

An application for an extension of time for the payment of the deficiency should be made under oath on Form 718 and must be accompanied by evidence showing that undue hardship to the donor would result if the extension were refused. The extension will not be granted on a general statement of hardship, but in each case there must be furnished a statement of the specific facts showing what, if any, financial loss or sacrifice will result if the extension is not granted. Wherever practicable a certified statement of the assets and liabilities of the donor should be submitted. The application with the evidence must be filed with the collector, who will at once transmit it to the Commissioner with his recommendation as to the extension. When it is received by the Commissioner, it will be examined immediately and, if possible, within 30 days will be rejected or approved or tentatively approved subject to conditions of which the donor will be immediately notified. The Commissioner will not consider an application for an extension of time for the payment of the deficiency unless such application is made on or before the date prescribed for payment thereof as shown by the notice and demand from the collector.

As a condition to the granting of such an extension the Commissioner may require the donor to furnish a bond on Form 718A in an amount not exceeding double the amount of the deficiency. If a bond is required, it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required. It shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by a deposit of Liberty bonds or other bonds or notes of the United States in the sum equal at their par value to the amount of the bond required to be furnished. (See section 1126 of the Revenue Act of 1926.) The amount of the deficiency and additions thereto shall be paid on or before the expiration of the period of the extension without the necessity of a notice and demand from the collector. (See section 521 (b) and article 57.)

SEC. 514. JEOPARDY ASSESSMENTS.

(a) Authority for making.—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) Deficiency letters.—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 513 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of Board.—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of section 513 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) Amount assessable after decision of Board.—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) Expiration of right to assess.—A jeopardy assessment may not be made after the decision of the Board has become final or after the donor has filed a petition for review of the decision of the Board.

(f) Bond to stay collection.—When a jeopardy assessment has been made the donor, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by the decision of the Board which has become final, together with interest thereon as provided in section 523 or 524 (b) (4).

(g) Same—Further conditions.—If the bond is given before the donor has filed his petition with the Board under section 513 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) Waiver of stay.—Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be

stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the donor, be proportionately reduced.

(i) **Collection of unpaid amounts.**—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded as provided in section 528, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

ART. 45. **Jeopardy assessments.**—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he is required to assess such deficiency immediately, together with the interest and other additional amounts provided by law. If a deficiency is assessed on account of jeopardy after the decision of the Board of Tax Appeals is rendered, the jeopardy assessment may be made only with respect to the deficiency determined by the Board. The Commissioner is prohibited from making a jeopardy assessment after a decision of the Board has become final (see section 1005 of the Revenue Act of 1926) or after the donor has filed a petition for review of the decision of the Board.

If notice of a deficiency was mailed to the donor (see section 513 (a) and article 41) before it was discovered that delay would jeopardize the assessment or collection of the tax, a jeopardy assessment may be made in an amount greater or less than that included in the deficiency notice. On the other hand if the assessment on account of jeopardy was made without mailing the notice required by section 513 (a), the Commissioner must within 60 days after the making of the assessment send the donor notice of the deficiency by registered mail. The donor may file a petition with the Board for a redetermination of the amount of the deficiency within 60 days (not counting Sunday as the sixtieth day) after such notice is mailed. If the petition of the donor is filed with the Board, either before or after the making of the jeopardy assessment, the Commissioner is required to notify the Board of such assessment, and the Board has jurisdiction to redetermine the amount of the deficiency together

with all other amounts assessed at the same time in connection therewith. (See section 514 (c).)

After a jeopardy assessment has been made, the list showing such assessment will be immediately transmitted to the collector. Upon receipt of the list containing the assessment, the collector is required to send notice and demand to the donor for the amount of the jeopardy assessment. Regardless of whether the donor has filed a petition with the Board, he is required to make payment of the amount of such assessment within 10 days after the sending of notice and demand by the collector, unless before the expiration of such 10-day period he files with the collector a bond on Form 718B of the character hereinafter prescribed. The bond must be in such amount, not exceeding double the amount for which the stay is desired, as the collector deems necessary and must be executed by sureties satisfactory to the collector. It must be conditioned upon the payment of so much of the amount, the collection of which is to be stayed by the bond, as is not abated by a decision of the Board which has become final, together with the interest on such amount as may accrue under section 523 and section 524 (b) (4). If the bond is given before the donor has filed his petition with the Board, it must contain a further condition that if a petition is not filed before the expiration of the 60-day period provided for the filing of such petition, the amount stayed by the bond will be paid upon notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per cent per annum from the date of the jeopardy notice and demand to the date of the notice and demand made after the expiration of the 60-day period. If a petition is not filed with the Board within the 60-day period, the collector will be so advised, and, if collection of the deficiency has been stayed by the filing of a bond within 10 days after the date of jeopardy notice and demand, he should then give notice and make demand for payment of the amount assessed plus interest. Any bond filed after the expiration of 10 days from the date of the jeopardy notice and demand is not such a bond as is contemplated by section 514 (f), and, while the collector may in his discretion accept the bond and stay collection of the deficiency, the donor will not be relieved from payment of interest on the amount of the deficiency at the rate of 1 per cent a month from the date of the jeopardy notice and demand to the date of payment.

Upon the filing of a bond of the character described within 10 days after the date of notice and demand for payment of the amount assessed, the collection of so much thereof as is covered by the bond will be stayed. The donor may at any time waive the stay of collection of the whole or any part of the amount covered by the

bond. If as a result of such waiver any part of the amount covered by the bond is paid, then the bond will at the request of the donor be proportionately reduced.

After the Board has rendered its decision and such decision has become final, the collector will be notified of the action taken. The collector will then send notice and demand for the unpaid portion of the amount determined by the Board, the collection of which has been stayed by the bond. The collector is required to include in the notice and demand for the unpaid portion, interest at the rate of 6 per cent per annum from the date of the jeopardy notice and demand to the date of the notice and demand referred to in this paragraph. If the amount of the jeopardy assessment is less than the amount determined by the Board, the difference, together with interest as provided in section 522, will be assessed, and collected as part of the tax upon notice and demand from the collector. If the amount included in the notice and demand made after the decision of the Board is not paid within 10 days after such notice and demand, there shall be collected as part of the tax, interest as provided in section 524 (b) (4). If the amount of the jeopardy assessment is in excess of the amount determined by the Board, the unpaid portion of such excess will be abated. If any part of the excess amount has been paid, it will be credited or refunded to the donor as provided in section 528. (See articles 62–65.)

As to bankruptcy and receivership cases, see sections 516 and 524 (b) (5) and articles 47 and 57.

SEC. 515. CLAIMS IN ABATEMENT.

No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

ART. 46. **Claims in abatement.**—Section 515 prohibits the filing of claims for abatement by donors in respect of any assessment of gift tax imposed by Title III of the Revenue Act of 1932. This provision does not prohibit the filing of claims in abatement by collectors. (See also articles 62–64.)

SEC. 516. BANKRUPTCY AND RECEIVERSHIPS.

(a) **Immediate assessment.**—Upon the adjudication of bankruptcy of any donor in any bankruptcy proceeding or the appointment of a receiver for any donor in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such donor shall, despite the restrictions imposed by section 513(a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) **Unpaid claims.**—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the donor upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in sections 513(i), 521(b), and 524(b)(3) in the case of a deficiency in a tax imposed by this title.

ART. 47. **Bankruptcy and receiverships.**—During bankruptcy proceedings in Federal courts under the National Bankruptcy Act of 1898, as amended, or during equity receivership proceedings in either Federal or State courts, the court making the adjudication of bankruptcy or appointing a receiver for any donor has control over the assets of such donor, and the collection of taxes due can not be made by distraining while the bankruptcy or receivership proceeding is pending.

Collectors should, promptly after notice of outstanding liability against a donor in bankruptcy or in receivership, file claim in the appropriate court whether unpaid taxes involved have been assessed or not, except in cases where departmental instructions direct otherwise; for example, where taxes of the bankrupt or insolvent donor are secured by a sufficient bond.

Under sections 3466 and 3467 of the Revised Statutes and section 64 (a) of the National Bankruptcy Act taxes take priority over claims of general creditors in cases of bankruptcy, receivership, and insolvency, and the trustee, receiver, or assignee may be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Bankruptcy courts have complete jurisdiction under section 64 (a) of the National Bankruptcy Act to determine all disputes regarding the amount and validity of taxes of a bankrupt. Bankruptcy and receivership proceedings do not foreclose or discharge any portion of a claim of the United States for taxes which has been allowed by the court having jurisdiction over same and which remains unsatisfied after termination of the bankruptcy or receivership proceeding.

ART. 48. **Immediate assessments in bankruptcy and receivership cases.**—Where the Commissioner has determined that a deficiency is due in respect of gift tax and the donor has filed a petition with the Board of Tax Appeals prior to adjudication of bankruptcy or the

appointment of a receiver, the trustee or receiver appointed by the court may prosecute the donor's appeal before the Board as to that particular determination. In no case shall a petition be filed with the Board for a redetermination of the deficiency after the adjudication of bankruptcy or the appointment of a receiver.

Claim for the amount of a deficiency where properly before the Board for consideration may be filed with the bankruptcy or equity court without awaiting final decision of the Board. In case of final decision of the Board before determination of the bankruptcy or receivership proceeding, a copy of the Board's decision may be filed by the Commissioner with the bankruptcy or equity court.

While the Commissioner is required by section 516 to make immediate assessment of any deficiency, such assessment is not a jeopardy assessment within the meaning of section 514, and consequently the provisions of that section do not apply to any assessment made under section 516. Therefore, the notice of the deficiency provided for in section 514 (b) will not be mailed. Although such notice will not be issued, nevertheless a letter will be sent to the donor or to the trustee or receiver in the bankruptcy or receivership proceeding, advising him in detail how the deficiency was computed, that the deficiency was assessed under the provisions of section 516, that he may furnish evidence showing wherein the assessment is incorrect, and that upon request he will be granted a hearing with respect to such assessment. If after such evidence is submitted and hearing held any adjustment appears necessary in the assessment, appropriate action will be taken looking to the submission of an amended claim in bankruptcy or receivership. A copy of the notification letter will be attached to the assessment list as the collector's authority for filing claim in bankruptcy or receivership for the amount represented by the assessment, plus interest at the rate of 6 per cent per annum for the period from the date of filing claim by the collector to the date of termination of the bankruptcy or receivership proceeding, or to the date of payment if payment is made in full prior to such termination. At the same time claim is filed with the bankruptcy or receivership court the collector will send notice and demand for payment to the donor, together with a copy of such claim.

If any portion of the claim allowed by the court in a bankruptcy or a receivership proceeding remains unpaid after the termination of such proceeding, the collector will send notice and demand for payment thereof to the donor. Such unpaid portion with interest as provided in section 524 (b) (5) may be collected from the donor by distraint or proceeding in court within six years after the termination of the proceeding in bankruptcy or receivership. Extensions of time

for the payment of such unpaid amount may be granted in the same manner and subject to the same provisions and limitations as provided in sections 513 (i), 521 (b), and 524 (b) (3) in the case of a deficiency. (See article 44.)

This article deals only with immediate assessments provided for in section 516 and the procedure in connection with such assessments.

SEC. 517. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

(a) General rule.—Except as provided in subsection (b), the amount of taxes imposed by this title shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) Exceptions—

(1) FALSE RETURN OR NO RETURN.—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(2) COLLECTION AFTER ASSESSMENT.—Where the assessment of any tax imposed by this title has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the donor.

ART. 49. **Period of limitation upon assessment of tax.**—The amount of gift tax imposed by the Revenue Act of 1932 must be assessed within three years after the return was filed. Exceptions to this period of limitation are as follows:

(1) In case of a false or fraudulent return with intent to evade tax, the tax may be assessed at any time after such false or fraudulent return is filed.

(2) In the event the donor fails to file a return, the amount of tax due may be assessed at any time after the date prescribed for filing the return. See section 518 and article 51 for provisions relating to the suspension of the running of the statute of limitations on the making of assessments.

With respect to the period of limitation for assessing the amount of the liability of a transferee of property of a donor, or for assessing the amount of the liability of a fiduciary under section 3467 of the Revised Statutes, see section 526 and article 60.

ART. 50. **Period of limitation upon collection of tax.**—In the case of the gift tax imposed by Title III of the Revenue Act of 1932, a proceeding in court without assessment for the collection of such tax

must be begun within three years after the return was filed, except that where the donor files a false or fraudulent return with intent to evade tax or fails to file a return, a proceeding in court for the collection of the tax may be begun at any time.

In any case in which the tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court or distraint for the collection of such tax may be begun within six years after the assessment thereof, or prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the donor before the expiration of such 6-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In determining the running of the statute of limitations in respect of distraint, the distraint shall be held to have been begun, in the case of personal property, on the date on which the levy upon such property is made, or, in the case of real property, on the date on which notice of the time and place of sale is given to the person whose estate it is proposed to sell.

See section 518 and article 51 for provisions relating to the suspension of the running of the statute of limitations on the beginning of distraint or a proceeding in court for collection of the tax.

SEC. 518. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 517 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 513 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

ART. 51. **Suspension of running of statute of limitations.**—If a notice of a deficiency has been mailed to the donor under the provisions of section 513 (a) (see article 41), then the running of the statute of limitations on assessment, the beginning of distraint after assessment, or on the beginning of a proceeding in court after assessment or without assessment, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

SEC. 519. ADDITIONS TO THE TAX IN CASE OF FAILURE TO FILE RETURN.

In case of any failure to make and file a return required by this title, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, 25 per centum of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to willful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

ART. 52. **Additions to the tax in case of failure to file return.**—In the case of failure to make and file a return required by the Gift Tax Act of 1932 within the time prescribed, 25 per centum of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the time prescribed is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect. Two classes of delinquents are subject to this addition to the tax:

(*a*) Those who do not file returns and for whom returns are made by a collector or the Commissioner, and

(*b*) Those who file tardy returns and are unable to show reasonable cause for the delay.

A donor who files a tardy return and wishes to avoid the addition to the tax must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the return on time in the form of an affidavit or affidavits which should be attached to the return. If affidavits are furnished with the return or upon the collector's demand, the collector, unless otherwise directed by the Commissioner, will forward the affidavits with the return, and, if the Commissioner determines that the delinquency was due to a reasonable cause and not to willful neglect, the 25 per cent addition to the tax will not be assessed. If the donor exercised ordinary business care and prudence and was nevertheless unable to file the return in the prescribed time, then the delay is due to reasonable cause.

Where the 25 per cent addition to the tax for delinquency in filing the return has been added, the amount so added shall be collected in the same manner as the tax.

For addition to the tax in case of a deficiency due to fraud with intent to evade tax, see section 520 and article 53. As to the making of returns for donors by collectors or the Commissioner in the case of

delinquency in filing a return, or in the case of a false or fraudulent return, see section 3176 of the Revised Statutes, as amended by section 1103 of the Revenue Act of 1926, and by section 619 (d) of the Revenue Act of 1928.

SEC. 520. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) Negligence.—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 522, relating to interest on deficiencies, shall not be applicable.

(b) Fraud.—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

ART. 53. **Additions to the tax in case of deficiency.**—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, 5 per cent of the total amount of the deficiency shall be added to the deficiency. Where the negligence, or intentional disregard of rules and regulations, was without intent to defraud, the added amount will be assessed, collected, and paid in the same manner as the deficiency, except that such added amount will not be subject to the interest provisions of section 522. (See article 55.)

If any part of the deficiency is due to fraud with intent to evade tax, 50 per cent of the total amount of the deficiency, in addition to the deficiency, will be assessed and collected and should be paid in the same manner as the deficiency. The 50 per cent addition to the tax provided by section 520 (b) is in lieu of the penalty imposed by section 3176 of the Revised Statutes, as amended.

For penalties other than additions to the tax for willful attempts to evade or defeat the tax, see section 525 and article 58.

SEC. 521. INTEREST ON EXTENDED PAYMENTS.

(a) Tax shown on return.—If the time for payment of the amount determined as the tax by the donor is extended under the authority of section 509 (b), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

(b) Deficiency.—In case an extension for the payment of a deficiency is granted, as provided in section 513 (i), there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period.

ART. 54. **Interest on tax where extension of time for payment has been granted.**—Where an extension of time has been granted for paying any portion of the tax shown by the donor upon his return, the statute requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 per cent per annum from the date upon which such payment should have been made (the 15th day of March following the close of the calendar year) to the expiration of the period of the extension. If the amount of tax, the time for payment of which has been extended, and the interest imposed thereon are not paid in full prior to the expiration of the period of the extension, or extensions, granted by the Commissioner, interest accrues upon the total unpaid amount (tax and interest) at the rate of 1 per cent a month from the date of the expiration of the extension, or extensions, until payment is received by the collector. (See section 524 (a) (2) and article 57.)

Where an extension of time for paying the deficiency, or any portion thereof, has been granted, section 521 (b) requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 per cent per annum for the period of the extension. In any case where an extension of time is granted for paying the deficiency, interest will be added to the amount, the time for payment of which has been extended, for the period of the extension, or extensions. Where the amount, the time for payment of which has been extended, or any portion thereof, is not paid on or before the expiration of the extension, or extensions, interest accrues upon the total unpaid amount (tax, interest, or additions thereto) at the rate of 1 per cent a month from the date of the expiration of the extension until payment is received by the collector. (See section 524 (b) (3) and article 57.)

Example: A deficiency in tax amounting to $500 was determined and assessment thereof made on the 15th day of July, the due date of the tax being March 15 preceding. The amount of the assessment in this instance is $500, plus interest thereon at 6 per cent per annum from and including March 16 to and including July 15, amounting to $10.03, computed upon the basis of 365 days to the year (or 366 days in a leap year), or a total assessment of $510.03, which thereupon becomes the amount of the deficiency. The date of the notice and demand by the collector for payment was August 1 following the assessment. Within 30 days thereafter $255.02 was paid and request was made for an extension of time for paying the balance of the deficiency ($255.01), and an extension from August 1 to and including February 1 was granted for the payment thereof. This amount bears interest at 6 per cent per annum for the period of the extension, amounting to $7.71. The remaining liability is, therefore, $262.72. (For provisions relating to interest where the deficiency is not paid on or before the expiration of the period of the extension granted, see section 524 (b) (3) and article 57.)

SEC. 522. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under section 513 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

ART. 55. **Interest on deficiencies.**—The statute provides that the deficiency shall bear interest at the rate of 6 per cent per annum from the due date of the tax (the 15th day of March following the close of the calendar year) to the date the deficiency is assessed, except in the case of a waiver of the restrictions against the assessment and collection of the deficiency, and that such interest shall be assessed at the same time as the deficiency and shall be collected as part of the tax. The deficiency in respect to which the restrictions against the assessment and collection are waived under the provisions of section 513 (d) bears interest at the rate of 6 per cent per annum from the due date of the tax to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier. The term "deficiency" as used in this article includes any tax resulting from the correction of a mathematical error appearing upon the face of a return. (See paragraph (2) of article 41.)

For provisions relating to interest upon the deficiency where an extension of time for payment is granted, see article 54. For provisions relating to interest on jeopardy assessments, see article 56.

SEC. 523. INTEREST ON JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 514 (f) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 514 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 522.

ART. 56. **Interest on jeopardy assessments.**—Where a stay of the collection of a jeopardy assessment of a deficiency tax is obtained in accordance with the provisions of section 514 (f) (see article 45), and a petition for a redetermination of the deficiency is filed with the Board of Tax Appeals, interest accrues on such unpaid portion of the deficiency, if any, determined by a decision of the Board which becomes final, at the rate of 6 per cent per annum from the date of the notice and demand from the collector following the jeopardy assessment to the date of the notice and demand by the collector subsequent to the final action taken on the petition filed with the Board. If the amount determined by the Board as the amount

which should have been assessed is greater than the amount actually assessed, the difference bears interest at the rate of 6 per cent per annum from the due date of the tax until the assessment of such difference.

SEC. 524. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) **Tax shown on return—**

(1) PAYMENT NOT EXTENDED.—Where the amount determined by the donor as the tax imposed by this title, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the due date until it is paid.

(2) PAYMENT EXTENDED.—Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 521 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) **Deficiency—**

(1) PAYMENT NOT EXTENDED.—Where a deficiency, or any interest assessed in connection therewith under section 522, or any addition to the tax provided for in section 3176 of the Revised Statutes, is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(2) FILING OF JEOPARDY BOND.—If a bond is filed, as provided in section 514, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

(3) PAYMENT EXTENDED.—If the part of the deficiency the time for payment of which is extended as provided in section 513(i) is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

(4) JEOPARDY ASSESSMENT—PAYMENT STAYED BY BOND.—If the amount included in the notice and demand from the collector under section 514(i) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(5) INTEREST IN CASE OF BANKRUPTCY AND RECEIVERSHIPS.—If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 516, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount inter-

est upon the unpaid portion thereof at the rate of 1 per centum a month from the date of such notice and demand until payment.

ART. 57. **Additions to the tax in case of nonpayment (interest).**—Where any portion of the tax shown by the donor upon his return is not paid on or before the due date (the 15th day of March following the close of the calendar year) and no extension of time for payment thereof has been granted, such unpaid portion bears interest at the rate of 1 per cent a month from the due date until payment is received by the collector.

Where, however, an extension of time has been granted for paying any portion of the tax shown by the donor upon his return, the statute requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 per cent per annum for the period of the extension, and, if the amount of tax, the time for payment of which has been extended, and the interest thereon are not paid in full prior to the expiration of the extension, or extensions, granted by the Commissioner, interest accrues upon the total unpaid amount (tax and interest) at the rate of 1 per cent a month from the date of the expiration of the extension, or extensions, until payment is received by the collector.

Where a deficiency which has been assessed, together with the interest from the due date of the tax to the date of assessment (section 522 and article 55), and any additions to the tax provided by section 3176 of the Revised Statutes, is not paid in full within 10 days from the date of notice and demand from the collector, the unpaid amount of such deficiency, together with the interest and other additions to the tax, bears interest at the rate of 1 per cent a month from the date of such notice and demand until payment is received by the collector, unless an extension of time for the payment thereof has been granted, or unless the assessment was a jeopardy assessment and a bond to stay the collection thereof was filed. (See section 514 and article 45.)

In any case where an extension of time is granted for paying the deficiency, and the deficiency and interest accrued thereon are not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount (tax and interest) at the rate of 1 per cent a month for the period from the time fixed by the terms of the extension for payment until payment is received by the collector, and no other interest will be collected on such unpaid amount for such period.

An example of an addition to the tax in the case of nonpayment of the deficiency where an extension of time is granted for payment thereof is as follows: A deficiency in tax amounting to $500 was assessed on the 15th day of July, the due date of the tax being March

15 preceding. There was included in the amount of the assessment $10.03 as interest on the amount of the deficiency at 6 per cent per annum from and including March 16 to and including July 15, computed on the basis of 365 days to the year (366 days in a leap year), or a total assessment of $510.03. An extension of time for paying the deficiency and interest, $510.03, was granted from August 1 following the assessment, which was the date of the notice and demand by the collector for payment, to and including February 1. The amount of the liability was not paid until August 1 following the expiration of the extension. Inasmuch as $510.03, the time for payment of which was extended, was not paid until after the expiration of the extension, interest accrued thereon at the rate of 1 per cent a month for six months, amounting to $30.60.

Where the amount of tax included in the notice and demand from the collector is the amount of a jeopardy assessment, collection of which was stayed by the filing of a bond, and is the amount which should have been assessed as determined by a decision of the Board of Tax Appeals which has become final, and such amount is not paid in full within 10 days after such notice and demand, there will be collected as part of the tax interest upon the unpaid amount, including interest to the date of notice and demand as provided by section 523 (article 56), at the rate of 1 per cent a month from the date of such notice and demand until such amount, including interest, is paid.

If, in the case of bankruptcy proceedings or the appointment of a receiver for any donor, any portion of the claim for a deficiency and such interest, additional amounts, and additions to the tax presented for adjudication in accordance with law is unpaid, the unpaid portion of the claim, if not paid in full within 10 days from notice and demand from the collector, bears interest at the rate of 1 per cent a month from the date of such notice and demand until paid. (See section 516 (b) and article 47.)

SEC. 525. PENALTIES.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

ART. 58. **Penalties.**—Two kinds of penalties are provided for delinquency with respect to duties imposed by the statute:

(1) A specific penalty to be recovered by suit unless previously paid or adjusted by the acceptance of an offer in compromise; and

(2) A penalty of a certain percentage of the tax, to be added to and collected in the same manner as the tax.

In any case where more than one penalty is provided, the Government may assert any one or more thereof.

Any person required by the Gift Tax title to pay any tax, or required by law or regulations made under authority thereof to file any notice or make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of the tax, who willfully fails to pay such tax, file such notice or make such return, keep such records, or supply such information as required by the law and the regulations, shall, in addition to the other penalties, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Any person who willfully attempts in any manner to evade or defeat any gift tax shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, shall be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Any person who willfully aids or assists in the preparation or presentation of a false or fraudulent notice or return, or procures, counsels, or advises the preparation or presentation of such notice or return, whether such falsity or fraud is with or without the knowledge or consent of the person required to make the notice or return, will be guilty of a felony and, upon conviction thereof, fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution. (See section 1114 (c) of the Revenue Act of 1926.)

Any person who, in connection with any compromise entered into or offer made under the provisions of section 3229 of the Revised Statutes, as amended, or who, in connection with any closing agreement under section 606 of the Revenue Act of 1928 (see article 70) or the offer to enter into any such agreement, willfully conceals from any officer or employee of the United States any property belonging to the estate of the donor or any person liable in respect of the tax, or receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement relating to the estate or financial condition of the donor or other person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both. (See section 616 of the Revenue Act of 1928.)

For penalties imposed for failure to make and file a return, or for fraud with intent to evade tax, which consist of a percentage of the tax to be added thereto and collected in the same manner as the tax, see sections 519 and 520 and articles 52 and 53.

SEC. 3229, REVISED STATUTES. COMPROMISES.

The Commissioner of Internal Revenue, with the advice and consent of the Secretary of the Treasury, may compromise any civil or criminal case arising under the internal revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney-General, he may compromise any such case after a suit thereon has been commenced. Whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the Solicitor of Internal Revenue, or of the officer acting as such, with his reasons therefor, with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise.

ART. 59. **Power to compromise or remit.**—The Commissioner, with the advice and consent of the Secretary of the Treasury, may compromise any civil or criminal case arising under the internal revenue laws instead of commencing suit thereon, and with the advice and consent of the Secretary, and upon the recommendation of the Attorney General, may compromise any such case after suit thereon has been commenced by the United States. Accordingly, the power to compromise extends to (*a*) both civil and criminal cases; (*b*) cases whether before or after suit; and (*c*) both taxes and penalties, except that taxes legally due from a solvent taxpayer may not be compromised. Refunds can not be made of accepted offers in compromise in cases where it is subsequently ascertained that no violation of law was involved.

SEC. 526. TRANSFERRED ASSETS.

(a) **Method of collection.**—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) TRANSFEREES.—The liability, at law or in equity, of a transferee of property of a donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title.

(2) FIDUCIARIES.—The liability of a fiduciary under section 3467 of the Revised Statutes [U. S. C., title 31, sec. 192] in respect of the payment of any such tax from the estate of the donor.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) Period of limitation.—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor.

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (1),—then within one year after return of execution in such proceeding.

(c) Period for assessment against donor.—For the purposes of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred.

(d) Suspension of running of statute of limitations.—The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under section 513 (a) to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(e) Prohibition of suits to restrain enforcement of liability of transferee or fiduciary.—No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes [U. S. C., title 31, sec. 192] in respect of any such tax.

(f) Definition of "transferee."—As used in this section, the term "transferee" includes donee, heir, legatee, devisee, and distributee.

(g) Address for notice of liability.—In the absence of notice to the Commissioner under section 527(b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

ART. 60. **Claims in cases of transferred assets.**—The amount for which a transferee of the property of a donor is liable, at law or in equity, and the amount of the personal liability of a fiduciary under section 3467 of the Revised Statutes in respect of the gift tax imposed by Title III of the Revenue Act of 1932, whether shown on the return of the donor or determined as a deficiency in respect of the tax, shall be assessed against such transferee or such fiduciary, as the case may be, and collected and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax

imposed by the Gift Tax title of the Revenue Act of 1932, except as hereinafter provided. The provisions relating to delinquency in payment after notice and demand, the amount of interest attaching because of such delinquency, the authorization of distraint and proceedings in court for collection, the prohibition of claims for abatement and claims and suits for refund, the filing of a petition with the Board of Tax Appeals, and the filing of a petition for review of the Board's decision, are included in the sections and articles relating to deficiencies in tax imposed by Title III.

The term "transferee" as used in this article includes among others a donee, heir, legatee, devisee, and distributee.

The period of limitation for assessment of the liability of a transferee or of a fiduciary, referred to in the first paragraph of this article, is as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor.

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period of limitation for the bringing of such proceeding, then within one year after the return of the execution in such proceeding.

For the purpose of determining the period of limitation for assessment against a transferee or a fiduciary, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred.

If a notice of the liability of a transferee or the liability of a fiduciary has been mailed to such transferee or to such fiduciary under the provisions of section 513 (a) (see article 41), then the running of the statute of limitations shall be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

SEC. 527. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) Fiduciary of donor.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the donor in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated.

(b) Fiduciary of transferee.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 526, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the

estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) Manner of notice.—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

ART. 61. Notice of fiduciary relationship.—As soon as the Commissioner receives notice that any person is acting in a fiduciary capacity, such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the donor in respect of the tax imposed by the Gift Tax title. If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in section 526 (see article 60), such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is, however, not collectible from the estate of the fiduciary but is collectible from the estate of the donor or from the estate of the transferee or other person subject to the liability specified in section 526. The "notice to the Commissioner" provided for in section 527 shall be a written notice signed by the fiduciary and filed with the Commissioner. The notice must state the name and address of the person for whom the fiduciary is acting and the nature of the liability of such person; that is, whether it is a liability for the tax, and, if so, the year or years involved, or a liability at law or in equity of a transferee of property of the donor, or a liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any tax from the estate of the donor. Satisfactory evidence of the authority of the fiduciary to act for such person in the fiduciary capacity must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as such satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the Commissioner written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary.

If the notice of the fiduciary capacity described in the preceding paragraph is not filed with the Commissioner prior to the sending of notice of a deficiency by registered mail to the last known address of the donor (see section 513 (a)), or the last known address of the transferee or other person subject to liability (see section 526), no notice of the deficiency will be sent to the fiduciary. In such a case the sending of the notice to the last known address of the donor, transferee, or other person, as the case may be, will be a sufficient

compliance with the requirements of the Act, even though such donor, transferee, or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence. Under such circumstances if no petition is filed with the Board of Tax Appeals before the expiration of 60 days from the sending of the notice to the donor, transferee, or other person, the tax, or liability under section 526, will be assessed immediately upon the expiration of such 60-day period, and demand for payment will be made by the collector. The term "fiduciary" is defined by section 1111 (a) (6) to mean guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

SEC. 528. REFUNDS AND CREDITS.

(a) Authorization.—Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) Limitation on allowance—

(1) PERIOD OF LIMITATION.—No such credit or refund shall be allowed or made after three years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(c) Effect of petition to Board.—If the Commissioner has mailed to the taxpayer a notice of deficiency under section 513(a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the calendar year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) Overpayment found by Board.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdic-

tion to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition, whichever is earlier.

ART. 62. **Authority for abatement, credit, and refund of tax.**—Authority for the credit and refund of any overpayment of any gift tax imposed by the Revenue Act of 1932 is contained in section 528.

Section 515 prohibits the filing of claims for abatement by donors with respect to assessments of gift tax imposed by Title III of the Revenue Act of 1932. The provisions of section 515 do not impair the authority of the collectors to file claims with the Commissioner for relief from charges against them for uncollectible items, in accordance with the provisions of section 3218 of the Revised Statutes, as amended, which provides:

SEC. 3218. Every collector shall be charged with the whole amount of taxes, whether contained in lists transmitted to him by the Commissioner of Internal Revenue, or by other collectors, or delivered to him by his predecessor in office, and with the additions thereto, with the par value of all stamps deposited with him, and with all moneys collected for penalties, forfeitures, fees, or costs; and he shall be credited with all payments into the Treasury made as provided by law, with all stamps returned by him uncanceled to the Treasury, and with the amount of taxes contained in the lists transmitted in the manner heretofore provided to other collectors, and by them receipted as aforesaid; also with the amount of the taxes of such persons as may have absconded, or become insolvent, prior to the day when the tax ought, according to the provisions of law, to have been collected, and with all uncollected taxes transferred by him or by his deputy acting as collector to his successor in office: *Provided*, That it shall be proved to the satisfaction of the Commissioner of Internal Revenue, who shall certify the facts to the (First) Comptroller of the Treasury, that due diligence was used by the collector. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he faithfully account for and pay over the proceeds thereof upon a resale of the same as required by law.

ART. 63. **Abatement, credit, and refund adjustments.**—Overassessments and overpayments of gift taxes will be adjusted by means of certificates of overassessment. Credits or refunds of overpayments on the basis of such certificates of overassessment will be allowed or made even though claim for credit or refund has not been filed. However, credits or refunds may not be allowed or made after the expiration of the statutory period of limitation properly applicable unless prior to the expiration of such period a proper claim therefor has been filed by the donor. The claim, together with appropriate supporting evidence, must be filed in the office of the collector for the district in which the tax was paid. (See article 65.) As to interest in case of credits or refunds, see sections 614 and 615 of the Revenue Act of 1928.

ART. 64. **Claims by collectors.**—A collector may present blanket claims on Form 843 for the abatement of certain items which were erroneously assessed. Many of these items fall in a class where the error in assessment is apparent, and the abatement of such assessment by the use of blanket claims serves to relieve the collector of the charge against him for such amounts and to relieve him in an expeditious manner of the duty of collecting from the donor certain amounts which a summary examination clearly shows are not due from the donor. Some of the items included in this class of cases are duplicate assessments, amounts assessed as unidentified collections and later identified, assessments resulting from errors in computation, and amounts assessed as excess collections which are subsequently credited against taxes later found to be due.

In the event an erroneous assessment has been paid, the collector may file a blanket claim on Form 843 for credit of such amounts against any unpaid asssessments standing against the donor upon the assessment lists held by the collector. If there are no such unpaid assessments against which credit may be taken, the collector shall submit refund schedules to cover such amounts in accordance with instructions issued by the Commissioner. But no such credit or refund shall be allowed or made unless allowed or made within the statutory period of limitation properly applicable thereto.

The collector may also present claims for credit of taxes not erroneously assessed but found to be uncollectible. (See section 3218 of the Revised Statutes, as amended.) In such cases the collector or deputy collector who made the demand for the payment and is conversant with the facts may prepare the claim for credit on Form 53. Even though the collector is so credited with the amount allowed as uncollectible, nevertheless the obligation to pay still remains upon the person assessed. It is the duty of the collector to use the same diligence to collect the tax after he has received credit for an amount as uncollectible as before the allowance of such credit. Collectors should, therefore, keep a record of all taxes thus credited and of the persons from whom they are due and should enforce payment whenever it is in their power to do so.

ART. 65. **Claims for credit or refund by donors.**—Claims for the crediting or refunding of taxes, interest, penalties, and additions to tax erroneously or illegally collected shall be made on Form 843

and should be filed with the collector of internal revenue. A separate claim on such form shall be made for each taxable year.

Claims must set forth in detail and under oath each ground upon which a refund or credit is claimed and facts sufficient to apprise the Commissioner of the exact basis thereof. No refund or credit will be allowed or made after three years from the date of the payment of the tax sought to be refunded or credited, except upon one or more of the grounds set forth in a claim or an amendment thereof filed prior to the expiration of such period. A claim which does not comply with this paragraph will not be considered for any purpose as a claim for refund or credit.

The burden of proof to sustain a claim for refund or credit rests upon the claimant and all facts relied upon in support of the claim must be clearly set forth under oath. Every affidavit, argument, brief, or statement of facts, prepared or filed by an attorney or agent as argument or evidence in the matter of a claim, must have therein a statement signed by such attorney or agent showing whether or not he prepared such document and whether or not the attorney or agent knows of his own knowledge that the facts contained therein are true. Where there is a hearing, should the donor not appear in person, his representative who appears must present a properly executed power of attorney and be enrolled to practice before the Treasury Department. (See article 28.)

If a return is filed by a donor who subsequently dies and a refund claim is thereafter filed by a legal representative of the deceased, certified copies of the letters testamentary or letters of administration, or other similar evidence must be annexed to the claim to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was filed by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim.

Checks in payment of claims allowed will be drawn in the names of the persons entitled to the money and may be sent to such persons in care of an attorney or agent who has filed a power of attorney specifically authorizing him to receive such checks. The Commissioner may, however, send any such check direct to the claimant. In this connection, see section 3477 of the Revised Statutes, which provides:

> SEC. 3477. All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

The Commissioner has no authority to refund on equitable grounds penalties or other amounts legally collected. As to claims for refund of sums recovered by suit, see articles 66 and 67.

ART. 66. **Claims for refund in case of judgment obtained against collector.**—(*a*) Claims for the amount of a judgment against a collector of internal revenue for the recovery of taxes, penalties, or other sums should be made on Form 843 and filed with the Commissioner of Internal Revenue, Washington, D. C. The claimant should state the grounds of his claim under oath, giving the names of all the parties to the suit, the cause of action, the date of its commencement, the date of the judgment, the court in which it was recovered, and its amount. To this affidavit there should be annexed a certified copy of the final judgment in duplicate, a certificate of probable cause, and an itemized bill of the costs paid, receipted by the clerk or other proper officer of the court. In this connection section 989 of the Revised Statutes provides:

> SEC. 989. When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him, or for the recovery of any money exacted by or paid to him and by him paid into the Treasury in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury.

(*b*) If the judgment debtor shall have already paid the amount recovered against him, the claim should be made in his name. A

certificate of the clerk of the court in which the judgment was recovered (or other satisfactory evidence), showing that the judgment has been satisfied and specifying the exact sum paid in its satisfaction, with a detail of all items of costs which were paid by the judgment debtor or for which he is liable, should accompany the claim. (See further article 65.)

ART. 67. **Claims for refund in case of judgment obtained against the United States.**—Claims for the payment of judgments rendered by United States district courts and the United States Court of Claims against the United States representing taxes, penalties, or other sums, should be executed on Form 843 in duplicate and filed directly with the Commissioner of Internal Revenue, Washington, D. C. The claimant should state the grounds of his claim under oath, giving the names of all parties to the suit, the cause of action, the date of its commencement, the date of the judgment, the court in which it was recovered, and its amount. To this affidavit there should be annexed two certified copies of the final judgment, and an itemized bill of the costs paid, receipted by the clerk or other proper officer of the court. In the case of a judgment rendered by the Court of Claims, there may be submitted in lieu of a certified copy of the final judgment, a certificate of judgment issued by the clerk of the court and two copies of the court's opinion, if any was rendered.

ART. 68. **Limitations upon the crediting and refunding of taxes paid.**—(*a*) Except as provided in (*b*) of this article, (1) the Commissioner is prohibited from making credits or refunds of gift tax imposed by the Revenue Act of 1932 after three years from the time the tax was paid unless before the expiration of such 3-year period a claim therefor is filed, and (2) the amount of such credit or refund shall not exceed the portion of the tax paid during the 3-year period immediately preceding the date of the allowance of the credit or refund, or, if the credit or refund is based upon a claim, the amount of the credit or refund shall not exceed the portion of the tax paid during the 3-year period immediately preceding the date of filing such claim.

(*b*) In any case where a person having a right to file a petition with the Board of Tax Appeals with respect to a deficiency in gift tax imposed by the Revenue Act of 1932 files such petition within the prescribed time, no credit or refund of the tax for the year to which the deficiency relates shall be allowed or made, and no suit for the recovery of any part of such tax shall be instituted by the donor, except that—

(1) If the Board finds that there is no deficiency but that the donor has overpaid his tax for the year to which the notice of deficiency relates, and the decision of the Board as to the amount overpaid has

become final (see section 1005 of the Revenue Act of 1926), the overpayment shall be credited or refunded, but no such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the refund claim therefor or the filing of the petition, whichever is earlier.

(2) In the case of a jeopardy assessment made under section 514, if the amount which should have been assessed as determined by a decision of the Board which has become final is less than the amount already collected, the excess payment shall be credited or refunded subject to the limitation provided in (*b*) (1) of this article.

(3) If the amount of the deficiency determined by the Board (in a case where collection has not been stayed by the filing of a bond) is disallowed in whole or in part by the reviewing court, then the overpayment resulting from such disallowance shall be credited or refunded without the making of claim therefor. (See section 1001 (d) of the Revenue Act of 1926, as amended by section 603 of the Revenue Act of 1928.)

(4) Where the amount collected is in excess of the amount computed in accordance with the decision of the Board which has become final, the excess payment shall be credited or refunded within the period of limitation provided in section 528 (b).

(5) Where an amount is collected after the statutory period of limitation upon the beginning of distraint or a proceeding in court for collection has expired (see article 69), the donor may file a claim for refund of the amount so collected within the period of limitation provided in section 528 (b). In any such case, the decision of the Board as to whether the statutory period upon collection of the tax expired before notice of the deficiency was mailed shall, when the decision becomes final, be conclusive.

SEC. 607, REVENUE ACT OF 1928. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST UNITED STATES.

Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid (whether before or after the enactment of this Act) after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

SEC. 608, REVENUE ACT OF 1928. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST TAXPAYER.

A refund of any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) made after the enactment of this Act, shall be considered erroneous—

(a) if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) in the case of a claim filed within the proper time and disallowed by the Commissioner after the enactment of this Act, if the

refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts.

SEC. 609, REVENUE ACT OF 1928. ERRONEOUS CREDITS.

(a) **Credit against barred deficiency.**—Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 607.

(b) **Credit of barred overpayment.**—A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 608.

(c) **Application of section.**—The provisions of this section shall apply to any credit made before or after the enactment of this Act.

SEC. 610, REVENUE ACT OF 1928. RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED.

(a) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 608, after the enactment of this Act, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

* * * * * * *

ART. 69. **Erroneous refunds and credits.**—A refund is erroneous when made after the expiration of the period of limitation for filing a claim therefor, unless within such period a claim was filed. In the case where a claim was filed within the proper time and such claim was disallowed by the Commissioner and the period of limitation for filing suit by the donor had expired prior to the making of the refund, a refund is erroneous unless suit was begun by the donor within the period of limitation for filing suit, or unless within such period the donor and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of the final decision of one or more named cases then pending before the Board of Tax Appeals or the courts. Erroneous refunds, as above described, may be recovered by suit brought in the name of the United States within two years after the making of such refunds.

Where a refund of an overpayment would be an erroneous refund under the preceding paragraph of this article, a credit of such overpayment allowed against any tax is void. A credit is also void if allowed against a liability the assessment and collection of which was barred by the expiration of the period of limitation properly applicable thereto.

SEC. 606, REVENUE ACT OF 1928. CLOSING AGREEMENTS.

(a) **Authorization.**—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period ending prior to the date of the agreement.

(b) **Finality of agreements.**—If such agreement is approved by the Secretary, or the Undersecretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

* * * * * * *

ART. 70. **Closing agreements relating to tax liability in respect of internal-revenue taxes.**—Closing agreements provided for in section 606 of the Revenue Act of 1928 may relate to any taxable period ending prior to the date of the agreement. Such an agreement may be executed even though under such agreement the donor is not liable for any tax for the period. The matter agreed upon may relate to the total tax liability of the donor or it may relate to one or more separate items affecting the tax liability of the donor. For example, an agreement may be entered into with respect to the total amount of gifts, to deductions, or to the value of property on the date of gift. Accordingly, there may be a series of agreements relating to the tax liability for a single taxable period. Any tax or deficiency in tax determined pursuant to such an agreement shall be assessed and collected, and any overpayment determined pursuant thereto shall be credited or refunded, in accordance with the applicable provisions of the Act. (See also section 616 of the Revenue Act of 1928.)

SEC. 3467, REVISED STATUTES. LIABILITY OF FIDUCIARIES.

Every executor, administrator, or assignee, or other person, who pays any debts due by the person or estate from [for] whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

ART. 71. **Personal liability of fiduciaries.**—Every executor, administrator, or assignee, or other person, who pays any debts due by a

donor or a donor's estate for whom or for which he acts before he satisfies and pays the gift tax due to the United States from such donor, is personally liable for the payment of such tax.

SEC. 1104, REVENUE ACT OF 1926, AS AMENDED BY SECTION 618, REVENUE ACT OF 1928. EXAMINATION OF RECORDS AND TAKING OF TESTIMONY.

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

SEC. 617, REVENUE ACT OF 1928. JURISDICTION OF COURTS.

(a) If any person is summoned under this Act to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(b) The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this Act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions.

ART. 72. **Securing evidence—Taking testimony.**—In order to ascertain the correctness of a return, or to make a return where none has been made, the Commissioner has power to require the attendance and to take the testimony of the person rendering the return or any employee of such person, or any other person having knowledge in the premises. Such persons may be required to produce any relevant book, paper, or other record. This power may be exercised by any revenue agent or inspector designated for the purpose. For penalties, see article 58.

ART. 73. **Power to compel compliance.**—Where any person is summoned to appear and testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides has power to compel the giving of testimony, the

production of books, papers, or data, and to issue any appropriate process, writ, or order.

SEC. 529. LAWS MADE APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title.

ART. 74. **Laws made applicable.**—All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are made a part of the Gift Tax title of the Revenue Act of 1932.

SEC. 531. DEFINITIONS.

For the purposes of this title—

(a) **Calendar year.**—The term "calendar year" includes only the calendar year 1932 and succeeding calendar years, and, in the case of the calendar year 1932, includes only the portion of such year after the date of the enactment of this Act.

(b) **Property within United States.**—Stock in a domestic corporation owned and held by a nonresident shall be deemed property situated within the United States.

ART. 75. **Definitions.**—(*a*) *Calendar year.*—The term "calendar year" as used in the Gift Tax Act of 1932 includes the portion of the calendar year 1932 after the date of the enactment of such Act, i. e., June 6, 1932, and succeeding calendar years. (See article 5.)

(*b*) *Property within the United States.*—Section 531 provides that stock in a domestic corporation owned and held by a nonresident shall be deemed property situated in the United States for the purposes of the Gift Tax Act. For regulations relating to situs of property generally, see article 18.

SEC. 532. SHORT TITLE.

This title may be cited as the "Gift Tax Act of 1932".

ART. 76. **Short title.**—Section 532 provides that Title III of the Revenue Act of 1932, which imposes a tax upon gifts made after the date of the enactment of such Act, may be cited as the "Gift Tax Act of 1932."

SEC. 530. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

ART. 77. **Promulgation of regulations.**—In pursuance of the statute, the foregoing regulations are hereby made and promulgated.

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved October 30, 1933.

DEAN ACHESON,
Acting Secretary of the Treasury.

INDEX

(An analytical Table of Contents precedes the Regulations)

	Article	Page
A		
Abatement claim:		
By donor	46	40
By collector	64	59
Additions to the tax:		
Deficiency	53–55	46–48
Extended payments	54	46
Failure to file return	52	45
Jeopardy assessments	56	48
Nonpayment of tax	57	50
Adjustment of tax	39, 41, 63, 65–67	30, 33, 58, 59–62
Administrator. *See* Executor.		
Ad valorem penalty	52, 53	45, 46
Agent:		
Delivery of a refund check to	65	59
Recognition of	28	25
Alaska, included in the term "United States"	18	13
Amendment of return by Commissioner	29	25
Annuities, valuation of	19 (7)	16
Appraisal of property	19	13
Appraisal lists	26	24
Approval of regulations	77	67
Assessment of deficiency tax:		
Abatement of	46, 64	40, 59
Appeal after jeopardy assessment	45	38
Appeal extends time for	41	33
Consent to	42	35
Interest after	57	50
Suit without	50, 74	43, 67
Waiver of restrictions on	42	35
Assessment of tax shown on return:		
Not subject to claim for abatement by donor	46	40
Return made by Commissioner, collector, or deputy collector	40, 41	30, 33
Attendance, power to require	72, 73	66
Attorney in fact:		
Delivery of a refund check to	65	59
Recognition of	28	25
Audit by Commissioner	39	30
Authority for regulations	77	67
B		
Balance sheets	19, 26	13, 24
Beneficiary:		
Lien for tax on property of	37	28
Of estate of deceased donor, claim for refund by	65	59
Board of Tax Appeals	41, 45, 48	33, 38, 41

	Article	Page
Bond of donor required in connection with:		
Bankruptcy and receiverships	47, 48	41
Extension for time of payment	31, 44	26, 35
Jeopardy assessments, stay of collection of	45	38
Release of lien	38	29
Bonds:		
Gift of, taxable, whether Federal, State, or municipal	2	2
Nonresident alien donor	18	13
Of United States, deposit of in connection with extension and release of lien	31, 38, 44	26, 29, 35
Valuation of	19 (3)	14
Books and records, production of	72, 73	66
Burden of proof	65	59
Business, valuation of interest in	19 (4)	15
C		
Calendar year defined	75	67
Cash, gift of	2	2
Certificate of deposit	2	2
Certificate of release of lien	38	29
Charitable gifts	13	11
Checks, payment of tax with	35	27
Citizenship	4	3
Claims for abatement	46, 64	40, 59
Claims for refund or credit	65–67	59, 62
Collection of tax	30, 41, 74	26, 33, 67
Collector:		
Checks, deposit and collection of	35	27
Disclosure on return by	28	25
Extension of time by, for filing return	22	21
Payment of tax to	30	26
Return prepared by	29	25
Commissioner:		
Determination of tax by	39	30
Return prepared or amended by	29	25
Compromise of penalties or disputed tax	59	53
Computation of tax	5–7	6–7
Conditional, charitable, etc., gifts	16	12
Consent to assessment of deficiency tax	42	35
Consideration for transfer:		
For less than an adequate and full	8	8
Love and affection as	8	8
Release of dower and marital rights as	8	8
Corporation:		
Charitable, gift to	13, 14	11, 12
Gifts by	2	2
Liability for tax as fiduciary	71	65
Notice of fiduciary capacity	61	56
Notice of gift required when acting as trustee	21	21
D		
Data supplemental may be required	26	24
Date for filing return	22	21
Date for payment of tax	30	26
Date, gifts made after June 6, 1932, taxable		II
Debt:		
Cancellation, forgiveness or release of, owed donor	2	2
Payment of for another person	2	2
Deceased donor see:		
Payment of tax	36, 60, 61	28, 54, 56
Refund or credit	61, 65	56, 59
Return	20	20

	Article	Page
Declaration of trust	2	2
Deductions:		
Citizens or residents	12, 13	10, 11
Nonresidents not citizens of the United States	12, 13	10, 11
Defeat tax, penalty for attempt to	58	52
Deficiency tax:		
Abatement of jeopardy assessment	45	38
Agreement, assessment made upon	70	65
Assessment, claim for abatement of	46, 64	40, 59
Assessment of	41, 42 45, 48	33, 35, 38, 41
Collection of	43, 45, 47	35, 38, 41
Consent to assessment	42	35
Determination of	39, 41	30, 33
Extension of time for payment of	44, 45	35, 38
Interest on	55–57	48–50
Lien of	37, 38	28, 29
Notification of	41, 45	33, 38
Payment of	43–45	35–38
Personal liability for	30, 37, 71	26, 28, 65
Petition for redetermination of	41	33
Waiver of restrictions on assessment	42	35
Definitions	4, 75	3, 67
Delinquency, penalties	52, 53, 57	45, 46, 50
Deposit, certificate of, gift of	2	2
Deposit in joint bank account	2	2
Deputy collector, return by	29	25
Determination of amount of tax, method of	5–7	6–7
Determination of net gifts	9, 39	8, 30
Determination, final, of tax liability	39, 41	30, 33
Disbarment, committee on enrollment and	28	25
Discharge:		
From debt, when it is a gift	2	2
Of lien for tax	37	28
Disclosure in regard to return	27, 28	24, 25
Distraint, collection of tax by	50, 51	43, 44
District of Columbia	4, 13	3, 11
Domicile	4	3
Donative character of transaction determines taxability	2, 8	2, 8
Donee, personal liability of	37	28
Donor:		
Duty to keep records and render statements	25, 26	24
Liable for the tax	36	28
Return by	20, 22–26	20, 21–24
Since deceased	20	20
Tax determined by the Commissioner	41, 63	33, 58
Due date for filing return	22	21
Due date for payment of the tax	30–32	26, 27
E		
Effective date of gift tax		II
Enrollment and disbarment, committee on	28	25
Entirety, estate by	2	2
Equitable rights or interests	2	2
Estate by entirety	2	2
Estate, joint	2	2
Estate limited to commence in future	11	9
Estate of donor required to make return	20	20
Evidence, securing	72, 73	66
Excess of tax paid over tax determined	63	58
Exchanges, when taxable	1, 8	1, 8
Excluded gifts	10	8

	Article	Page
Executor of estate of deceased donor:		
Payment of tax by	20, 36	20, 28
Personal liability of	36, 71	28, 65
Refund, application for, made by	65	59
Return by	20	20
Exempt gifts	10	8
Exemption, specific	12	10
Extension of time for:		
Filing return	22	21
Payment of deficiency tax	44	35
Payment of tax shown on return	31	26
F		
Fair market value	19	13
False or fraudulent return	29, 49, 50, 53	25, 43, 46
Federal bonds, gift of, taxable	2	2
First $5,000 of gifts	10	8
$5,000 gifts or less	10	8
Foreign country, citizen of	4	3
Fraternal society, gifts to certain	13	11
Fraudulent return	29, 49, 50, 53	25, 43, 46
G		
Gift of future interest	11	9
Gift tax, character of	1	1
See also Tax, gift.		
Gift within the meaning of the Act	1	1
H		
Hawaii, included in the term "United States"	18	13
Hypothetical questions not answered	28	25
I		
Income of property transferred to charitable uses, reservation of, in favor of grantor or of another	13	11
Indebtedness, release, cancellation, or forgiveness of	2	2
Indirect gifts:		
Consideration for transfer passing to another	2	2
Corporations, by. *See* Corporation.		
Estate by entirety, creation of	2	2
Insurance, assignment of or naming beneficiary	2	2
Joint bank account, creation of or deposit in	2	2
Joint tenancy, creation of	2	2
Services, gift of	2	2
Individuals, gifts not in excess of $5,000 to	10	8
Individuals required to make return	20	20
Inspection of return	27	24
Insurance, assignment of or naming beneficiary of. *See* Indirect gifts.		
Intangibles, valuation of	19 (6)	16
Interest in business, valuation of	19 (4)	15
Interest in property, future	11	9
Interest on penalty added to tax	53	46
Interest on tax	54–57	46–60
J		
Jeopardy assessment	45, 56	38, 48
Joint bank account, creation or deposit in	2	2

	Article	Page
Joint tenancy, creation of	2	2
Joint tenancy, valuation of	19 (8)	18
Judgment, assignment of	2	2
L		
Liability for tax, who subject to personal	36, 37, 60, 71	28, 54, 65
Liberty bonds, gift of taxable	2	2
Lien for the tax:		
Property subject to	37	28
Release of lien	38	29
Life interests, valuation of	19 (7)	16
Limitation on time for filing claim for credit or refund	65	59
M		
Market value	19	13
Money or money's worth, consideration in	1, 8	1, 8
Municipal bonds, gifts of, taxable	2	2
N		
Net gifts	9	8
Nonresident aliens subject to tax	1	1
Nonresident citizens subject to tax	1	1
Nonresident, defined	4	3
Nonresident donor:		
Deductions	12, 13	10, 11
Return by	20	20
Situs of property	18	13
Notes, valuation of	19 (5)	16
O		
Oral hearing	65	59
P		
Payment of claims and interest if refund allowed	63, 65	58, 59
Payment of tax	30–36, 43–45	26–28, 35–38
Effect of extension of time for filing return	22	21
Extension of time for payment of deficiency tax	44	35
Penalty for failure to make	57	50
Penalties:		
Ad valorem	58	52
Advising or assisting the preparation or presentation of false or fraudulent documents	58	52
Compromise	59	53
Delinquency	52, 53, 57	45, 46, 50
Failure to file return	52	45
Failure to pay tax, exhibit property, keep or exhibit records, etc	58	52
False or fraudulent document	58	52
False or fraudulent return	53, 58	46, 52
Interest on ad valorem	52, 53	45, 46
Pay tax, failure to	57	50
Remit, power to	59	53
Return, failure to file	52	45
Return made by Commissioner, collector, or deputy collector	29	25
Specific	58	52
Person in actual or constructive possession of any property of deceased donor shall pay the tax	36	28
Personal liability, persons subject to, donor, administrator, executor, trustee, donee	36, 37 60, 71	28, 54, 65

	Article	Page
Persons required to make return	20	20
Petitions to Board of Tax Appeals	41, 45, 48	33, 38, 41
Power to alter, amend, modify, or revoke a trust	3, 16	3, 12
Power to apply property or fund to uses other than charitable	16	12
Power to secure evidence	72, 73	66
Preparation of false or fraudulent documents, penalty for assisting or procuring the preparation or presentation of	58	52
Preparation of return	23, 24	22, 23
Presentation of false or fraudulent documents, penalty for assisting, procuring, or advising	58	52
Presumption as to citizenship	4	3
Procuring, preparation or presentation of false or fraudulent documents, penalty	58	52
Production of evidence	72, 73	66
Promulgation of regulations	77	67
Property:		
Future interest in	11	9
Given, subject to lien for the tax	37	28
Intangible	2	2
Personal	2	2
Subject to lien for the tax	37	28
Tangible	2	2
Tax is on transfer	1	1
Transferred, character of, does not affect taxability	1	1
Public purpose, gift for	13–16	11–12
Q		
Questions, hypothetical	28	25
R		
Rates of tax	6, 7	7
Real estate, valuation of	19 (2)	14
Recognition of attorneys, agents, and other representatives	28	25
Records:		
Donor's duty to keep	25, 26	24
Examination	39	30
Power to compel production of	72, 73	66
Refunds	{ 62, 63, 65–69 }	58, 59–64
Regulations, authority for and promulgation of	77	67
Release of lien	38	29
Religious use	13–16	11–12
Remainder interests, valuation of	19 (7)	16
Representatives of claimants, recognition of	28, 65	25, 59
Reservation of powers with respect to trusts	3	3
Resident donor:		
Definition	4	3
Presumption	4	3
Return	20–29	20–25
Commissioner or collector	29	25
Confidential	27	24
Deductions	12, 13	10, 11
Disclosure in regard to	28	25
Due date for filing	22	21
Examination of	39	30
Executor of deceased donor	20	20
Extension of time for filing	22	21
Failure to file	29, 52	25, 45
False or fraudulent	49, 53, 58	43, 46, 52
Filing of	20	20
Nonresident alien donor	4, 18, 20	3, 13, 20

	Article	Page
Return—Continued		
Penalties for—		
Delinquency in filing	29, 52	25, 45
Filing false or fraudulent	53, 58	46, 52
Persons required to file	20	20
Preparation of	23, 24	22, 23
Privileged character of	27	24
Resident donor	20	20
Tax shown by, payment of	30–36	26, 28
Value shown on, basis of should be shown	19 (3)	14
When required—		
Nonresident alien donor	20	20
Resident or nonresident citizen donor	20	20
Reversionary interests, valuation of	19 (7)	16
Revocation, reservation, in connection with transfer of power of	3	3
S		
Sales for less than a fair consideration	1, 8	1, 8
Securities, valuation of	19 (3)	14
Services, gift of	2	2
Situs of property	18	13
Specific exemption	12	10
State bonds, gift of taxable	2	2
Statements, donor's duty to render	25, 26	24
Statute, text of. *See* Table of contents, in front hereof, for analysis.		
Stocks and bonds:		
Situs	18	13
Valuation	19 (3)	14
Suit, collection of tax by	50, 51	43, 44
Supplemental data may be required	26	24
T		
Table of contents		III
Tables:		
Annuities and remainders, life		19
Annuities and remainders, term certain		20
Gift tax rate schedule		7
Tax Appeals, Board of	41, 45, 48	33, 38, 41
Tax, gift (for statute and analysis see Table of contents):		
Abatement of	46, 62–64	40, 58–59
Additions to	52, 53, 57	45, 46, 50
Character of	1	1
Collection of	30, 41, 74	26, 33, 67
Computation	5–7	6–7
Deductions	12, 13	10, 11
Deficiency tax	{ 40, 41–45, 53, 55–57 }	30, 33–38, 46, 48–50
Determination of	5–7	6–7
Due date for filing return	22	21
Due date of	30	26
Imposition of	1	1
Interest on	54–57	46, 50
Liability, manner of determining	5–7	6–7
Liability of certain persons	{ 36, 37, 60, 71 }	28, 54, 65
Lien for	37, 38	28, 29
Nature of	1	1
Payment of	{ 30–36, 43–45 }	26–28, 35–38
Penalty for failure to pay	57, 58	50, 52

	Article	Page
Tax, gift, etc.—Continued		
Rates of	6, 7	7
Returns, filing of	20, 22	20, 21
Tenant for life, gift of his interest	19 (7)	16
Testimony, taking	72, 73	66
Text of Act. *See* Table of contents.		
Total gifts	9	8
Transfers reached	1, 2	1, 2
Trustee of estate of donor or donee	71	65
Trustee of the transferred property, liability of	60, 61	54, 56
Trustee required to file notice	21	21
Trusts:		
Gifts and transfers by	3	3
Gifts effected through	2, 3	2, 3
Income of	3	3
Irrevocable	3	3
Relinquishment of power of revocation	3	3
Revocable	3	3
U		
United States	18	13
Use of property, valuation of	19 (7)	16
V		
Valuation, rules for	19	13
Veterans of the World War, gifts to special fund for vocational rehabilitation	13	11
Vocational rehabilitation, gifts to special fund for	13	11
W		
Waiver or consent to assessment of deficiency tax	42	35
World War veterans, gifts to special fund for vocational rehabilitation of	13	11

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